

**AMERICA'S BLACK COLLEGES AND
UNIVERSITIES: MODELS OF EXCELLENCE
AND CHALLENGES FOR THE FUTURE**

HEARING
BEFORE THE
COMMITTEE ON
EDUCATION AND LABOR
U.S. HOUSE OF REPRESENTATIVES
ONE HUNDRED TENTH CONGRESS
SECOND SESSION

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**Thursday, March 13, 2008
U.S. House of Representatives
Committee on Education and Labor
Washington, DC**

The committee met, pursuant to call, at 10:04 a.m., in room 2175, Rayburn House Office Building, Hon. George Miller [chairman of the committee] presiding.

Present: Representatives Miller, Kildee, Payne, Andrews, Scott, Hinojosa, McCarthy, Kucinich, Wu, Davis of California, Davis of Illinois, Bishop of New York, Sarbanes, Yarmuth, Hare, Clarke, McKeon, Petri, Ehlers, Keller, and Walberg.

Staff present: Tylease Alli, Hearing Clerk; Fran-Victoria Cox, Staff Attorney; Denise Forte, Director of Education Policy; Gabriella Gomez, Senior Education Policy Advisor (Higher Education); David Hartzler, Systems Administrator; Lloyd Horwich, Policy Advisor for Subcommittee on Early Childhood, Elementary and Secondary Education; Lamont Ivey, Staff Assistant, Education; Ann-Frances Lambert, Administrative Assistant to Director of Education Policy; Danielle Lee, Press/Outreach Assistant; Ricardo Martinez, Policy Advisor for Subcommittee on Higher Education, Lifelong Learning and Competitiveness; Stephanie Moore, General Counsel; Alex Nock, Deputy Staff Director; Joe Novotny, Chief Clerk; Rachel Racusen, Deputy Communications Director; Julie Radocchia, Education Policy Advisor; Dray Thorne, Senior Systems Administrator; Margaret Young, Staff Assistant, Education; Mark Zuckerman, Staff Director; Stephanie Arras, Minority Legislative Assistant; James Bergeron, Minority Deputy Director of Education and Human Services Policy; Robert Borden, Minority General Counsel; Amy Raaf Jones, Minority Professional Staff Member; Alexa Marrero, Minority Communications Director; Susan Ross, Minority Director of Education and Human Resources Policy; and Linda Stevens, Minority Chief Clerk/Assistant to the General Counsel.

Chairman MILLER [presiding]. Good morning and welcome. The Committee on Education and Labor will come together for the purpose of conducting a hearing on America's Black Colleges and Universities: Models of Excellence and Challenges for the Future.

Just one second. I am trying to learn what our schedule is. We have a vote?

We have had a ceremony in the Rotunda, a moment of remembrance, for the fifth anniversary of the hostilities in Iraq and Afghanistan, and so more members will be coming. I think it is best that we get started because we also have had some fairly contentious days on the floor of the House of Representatives over the last couple of days. So we will try to weave all of this in with our schedule.

But thank you so much in advance for being here today and for the testimony that we will receive.

One of the primary focuses of this committee has been to make college more affordable and accessible so that every qualified student has the opportunity to go to college. We began last year by enacting a \$20 billion increase in additional federal college aid over the next 5 years.

In addition to providing low-and middle-income students with much-needed financial relief to help pay for college, this new law also makes historic investments of more than a half-billion dollars in historically black colleges and universities and Hispanic-serving institutions and other minority-serving schools.

HBCUs provide critical higher education opportunities for African-American, low-income, and educationally disadvantaged Americans. Historically, historically black colleges and universities have played an especially significant role in opening the doors of college to African-American students. During times of slavery and segregation, the HBCUs were the only institutions that would admit African-American students.

Today, these colleges and universities are playing an increasing role in helping students succeed in college and strengthening our workforce and our economy. The National Association for Equal Opportunity in Higher Education released a new report just today showing the significant strides that black colleges are making to increase access to higher education and to boost our nation's global competitiveness.

In 1994, slightly fewer than one million African-American students were enrolled in either 2-year or 4-year undergraduate institutions, making up just over 9 percent of all college students. By 2004, the number of African-American students enrolled had more than doubled, so that they comprised about 13 percent of all college students. Over the past decade, enrollment rates at historically black colleges and universities have grown at a much faster rate than enrollment rates of all college students.

Although historically black colleges and universities represent only 3 percent of all colleges and universities, they enroll close to a third of all African-American students. They serve a disproportionate number of all African-American students pursuing careers that are critical to the competitiveness of this nation. Forty percent of their students pursue a 4-year degree in science, technology, engineering, or math, and about half of all African-Americans students in teaching fields have attended HBCUs.

But despite this progress, these institutions continue to face a unique set of challenges, including limited resources and budgets. The historically black colleges and universities tend to have smaller endowments than other comparable institutions. Another recent study by the National Association for Equal Opportunity in Higher

Education found that during the 2004-2005 school year not a single historically black college and university ranked among the top 120 endowments in the country.

Sadly, President Bush's recently released fiscal year 2009 budget proposes harmful cuts to the funding for historically black colleges and universities and other minority-serving schools, which would only worsen the financial challenges that these schools face.

In addition, many historically black colleges and universities are in significant need of repair and renovation, especially those that are still feeling the devastating effects of Hurricane Katrina. And some disparities still persist between students attending historically black colleges and universities and students at other comparable schools—part of the reason the Office of Civil Rights in the Department of Education has pursued a compact agreement with several states to root out the discrimination that minority students face.

Clearly, there remains a great deal of work ahead to ensure that students at historically black colleges and universities and other minority-serving schools have the same opportunity as students at other colleges. I am pleased to say that this Congress and this committee have taken some important steps to address these changes.

In addition to our newly passed student aid law, the House also recently passed the College Opportunity and Affordability Act, H.R. 4137, which increases the amount of funding historically black colleges and universities would receive for capital projects and repairs. It also expands funding eligibility for graduate student programs at HBCUs and other minority-serving institutions and addresses the challenges of starting and growing endowments at these schools.

Today, we will examine the tremendous accomplishments of private and public historically black colleges and universities and learn more about the obstacles they continue to face. We will also hear more about the purpose of the compact agreements and whether or not the Office of Civil Rights is doing enough to protect the interests of students attending historically black colleges and universities.

I want to thank our witnesses for joining us today, many of whom are in town for the National Association for Equal Opportunity in Higher Education's annual conference. Providing all Americans with equal educational opportunities is at the center of our nation's civil rights history and its shared values. It is a core part of our efforts to give everyone a chance to pursue the American dream.

At this time, I would like to recognize the senior Republican on the Education and Labor Committee, Congressman McKeon, my colleague from California who has been working for many years, while he was in the majority and now in the minority, to push this committee to report and the Congress to reauthorize the Higher Education Act, and we are now in conference, through a great deal of his work and all the members of this committee, and I want to recognize him for his opening remarks.

[The statement of Mr. Miller follows:]

**Prepared Statement of Hon. George Miller, Chairman, Committee on
Education and Labor**

Good morning. Welcome to our hearing on “America’s Black Colleges and Universities: Models of Excellence and Challenges for the Future.”

One of the primary focuses of this Committee has been to make college more affordable and accessible, so that every qualified student has the opportunity to go to college.

We began last year by enacting a \$20 billion increase in additional federal college aid over the next five years.

In addition to providing low- and middle-income students with some much-needed financial relief when paying for college, this new law also makes an historic investment of more than a half billion dollars in Historically Black Colleges and Universities, Hispanic-Serving Institutions, and other minority-serving schools.

HBCUs provide critical higher education opportunities for African-American, low-income, and educationally disadvantaged Americans. Historically, HBCUs have played an especially significant role in opening the doors of college to African-American students. During times of slavery and segregation, HBCUs were the only institutions that would admit African-American students.

Today, these colleges and universities are playing an increasing role in helping students succeed in college and in strengthening our workforce. The National Association for Equal Opportunity in Higher Education released a new report just today showing the significant strides that black colleges are making to increase access to higher education and to boost our nation’s global competitiveness.

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Over the past decade, enrollment rates at HBCUs have grown at a much faster rate than enrollment rates among all college students.

Although HBCUs represent only three percent of all colleges and universities, they enroll close to a third of all African-American students. They serve a disproportionate number of all African-American students pursuing careers that are critical to our competitiveness: Forty percent of their students pursue four-year degrees in science, technology, engineering and math, and about half of all African-Americans students in teaching fields attend HBCUs.

But despite this progress, these institutions continue to face a unique set of challenges, including limited resources and budgets. HBCUs tend to have smaller endowments than other comparable institutions. Another recent study by the National Association for Equal Opportunity in Higher Education found that, during the 2004-2005 school year, not a single HBCU ranked among the top 120 endowments in the country.

Sadly, President Bush’s recently released fiscal year 2009 budget proposes harmful cuts in funding for HBCUs and other minority serving schools, which would only worsen the financial challenges these schools face.

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Providing all Americans with equal educational opportunities is at the center of our nation's civil rights history and shared values. It's a core part of our efforts to give everyone the chance to pursue the American Dream.

Thank you.

Mr. McKEON. Thank you, Chairman Miller, and thank you for those kind words, and it is good to be working with you again this morning here.

I am pleased to have the opportunity to discuss the great value of historically black colleges and universities and what an important role they play in the post-secondary education environment. As with any institutional policy, HBCUs certainly face challenges, but that must not sidetrack us from recognizing the incredible void that was filled when historically black colleges were included and defined in the Higher Education Act.

Traditionally, HBCUs have provided diverse and distinguished institutions of post-secondary learning for African-Americans, with as many as 14 percent of all African-American students currently enrolled in such institutions nationwide. Today, we also find HBCUs have expanded in scope and depth and include young people from all races at over 100 different 2-and 4-year public-private institutions across the nation.

Historically black colleges and universities serve some of our most disadvantaged students, who in some cases would not have had the opportunity to earn a degree and benefit from the enriching experiences of higher education. Therefore, the contributions made by HBCUs deserve our recognition.

In many cases, HBCUs do not have access to the resources or endowment income of other colleges and universities; and yet, they continue to provide a quality education to some of the neediest students in the country. Over the years, Congress has worked to improve the nation's support for historically black colleges and universities. Many of these institutions and their students rely on federal grant and loan programs.

Under the Higher Education Amendments of 1998, Congress made significant improvements to programs designed to aid HBCUs in strengthening their institutions and graduate and professional programs. Changes allowed institutions to use federal money to build their endowments and to provide scholarships and fellowships for disadvantaged graduate and professional students. Title III of the Higher Education Act, which Congress is in the midst of reauthorizing, provides HBCUs with additional funds.

Between 1995 and 2008, congressional funding for the Strengthening Historically Black Colleges and Universities Program rose from \$109 million to \$238 million, a 118 percent increase over the last 13 years. Additionally, funding for the HBCU graduate program increased from \$19.6 million to \$56.9 million this year, an increase of 190 percent.

HBCUs—and all traditional colleges and universities, for that matter—continue to face the challenge of the skyrocketing cost of a college education. Some colleges and universities have taken steps to hold down costs by exercising greater administrative effi-

ciency and embracing innovative approaches, such as giving students the option of renting textbooks, a small step that can save students hundreds of dollars each year. This is a subject I have addressed aggressively over the last decade because I believe all post-secondary institutions should provide greater transparency of how and where student tuition dollars are being spent.

It is my understanding that today's hearing is also intended to examine the implementation of desegregation agreements, which were put into place to erase remaining vestiges of discrimination in our nation's past. Given the importance of this topic, I am surprised that we will not hear directly from one of the states that have worked to wipe out discrimination in their higher education system. After all, it is the states that entered into these agreements and the states that bear responsibility for fairly and fully promoting equality in their post-secondary systems.

I am pleased to have this distinguished panel of witnesses here before us, and I am interested to hear how some of the nation's HBCUs are addressing the college cost issue, issues of college access, and other challenges in a competitive 21st century economy.

Thanks to each of you for being here today. The work you are doing for our more disadvantaged students is to be commended. HBCUs provide a remarkable avenue for African-American young people—and all young people—to gain a quality education and are a source of pride for their communities and our nation.

Chairman Miller, we share the same desire of seeing our nation's students gain greater access to a college education, so I thank you for dedicating this time to examining the historically black colleges and universities.

And I yield back.

[The statement of Mr. McKeon follows:]

Prepared Statement of Hon. Howard P. "Buck" McKeon, Senior Republican Member, Committee on Education and Labor

Thank you Chairman Miller. I'm pleased to have the opportunity to discuss the great value of Historically Black Colleges and Universities and what an important role they play in the postsecondary education environment. As with any institution or policy, HBCUs certainly face challenges, but that must not sidetrack us from recognizing the incredible void that was filled when historically black colleges were included and defined in the Higher Education Act.

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Chairman Miller, we share the same desire of seeing our nation's students gain greater access to a college education, so I thank you for dedicating this time to examining Historically Black Colleges and Universities. I yield back.

Chairman MILLER. I thank the gentleman for his remarks.

And all members will have the opportunity to enter opening remarks into the record of this hearing.

Mr. SCOTT. Mr. Chairman?

Chairman MILLER. This will not be the—

Mr. SCOTT. Mr. Chairman?

Chairman MILLER. Just one second, Bobby.

This will not be the last that we hear about the compacts, but we had the opportunity today to have these magnificent leaders in town all at one time, and we thought we would take advantage of it. So I want to just respond to what was said.

Mr. Scott?

Mr. SCOTT. Thank you, Mr. Chairman.

Mr. Chairman, this is an extremely important hearing, but I want to express the reason why I will have to leave in a few minutes. The Congressional Black Caucus budget is on the floor in 15 minutes, and I think the panelists would rather me be on the floor trying to get some more money than being at the hearing. So I thank you for allowing me to make that comment.

Chairman MILLER. So you think they are that pragmatic just about budgets? [Laughter.]

Mr. Payne?

Mr. PAYNE. I, too, will have to leave at 10:30. I chair the Subcommittee on Africa and Global Health, and we are having a hearing today on child survival, reducing child mortality around the world. So, unfortunately, I, too, will have to leave at 10:30. But—

Mr. ANDREWS. Where are your priorities?

Mr. PAYNE. I am telling you. But I really look forward to reading the testimony, and we will do all we can to assist you. Thank you very much.

Chairman MILLER. Thank you.

We have a magnificent panel, and we are going to begin with the Honorable Hazel O'Leary who is president of Fisk University. President O'Leary has been the head of Fisk University since 2004.

President O'Leary has most recently served as president of the international energy consulting firm O'Leary & Associates that she founded in 1997 to focus on issues of corporate change, leadership, and arms control. She also served as president and chief operating officer of Blaylock & Partners, a top-ranked African-American investment banking firm in New York.

During the first administration of President Bill Clinton, President O'Leary served as the U.S. Secretary of Energy where she did some great groundbreaking work.

And thank you, Madam Secretary and President, all these things. My gosh.

Dr. Dorothy Yancy is president of Johnson C. Smith University in Charlotte, North Carolina. Dr. Dorothy Yancy is president of the Johnson C. Smith University and first came to the university as a student and then returned in 1994 to serve as the first woman appointed to that position. Previously, Dr. Yancy served as professor at the Georgia Institute of Technology for 22 years.

She holds a bachelor of arts degree in history and social science from Johnson C. Smith University, a master of arts degree in history from the University of Massachusetts-Amherst, and a Ph.D. in political science from Atlanta University.

Raymond Pierce is the dean of North Carolina Central Law School in Durham, North Carolina. Dean Pierce became dean of North Carolina Central Law School in 2005, and prior to serving dean of the law school, Mr. Pierce was a partner in the national firm of Baker & Hostetler from 1993 to 2000. Mr. Pierce served as President Bill Clinton's Deputy Assistant Secretary for Civil Rights at the U.S. Department of Education where he managed the enforcement of civil rights laws in education and the development of federal civil rights education policy.

I think Mr. Sarbanes is going to——

Mr. Sarbanes?

Mr. YARMUTH. Mr. Chairman?

Chairman MILLER. Or Mr. Yarmuth. Excuse me. Mr. Yarmuth is going to do the next introduction.

Mr. YARMUTH. Thank you, Mr. Chairman.

I have the great honor of introducing a fellow Kentuckian and a very distinguished one who has dedicated her life to higher education. She is in her fifth year of a very successful term of service as president of Kentucky State University in Frankfort, coming to us after an 8-year tenure at the University of Texas at Dallas.

She has more initials after her name than in it, with a bachelor's degree from Tougaloo College and master's and Ph.D. from University of Wisconsin-Madison, all in sociology, and an MBA from Abilene Christian College in Dallas.

To accompany all those degrees is an equally impressive list of honors, including the Women of Excellence Award, Texas Women of Distinction Award, the Outstanding Texan Award presented by the Texas Legislative Black Caucus. She was also awarded the Ford Foundation's Doctoral Fellowship for Black Americans and the National Institute of Mental Health Fellowship in Societal Change and Human Development.

But nothing on her resume can truly reflect the passion and the commitment and the character of someone whom I consider a friend and who has done an incredible job at Kentucky State, Dr. Mary Sias.

Welcome.

Chairman MILLER. Mr. Sarbanes will make the next introduction.

Mr. SARBANES. Thank you, Mr. Chairman, and thanks for holding this hearing on historically black colleges and universities.

I am pleased to introduce Dr. Earl Stanford Richardson who is the 11th president of Morgan State University in Baltimore. A native of Maryland, Dr. Richardson earned the bachelor of arts degree in social science from the University of Maryland-Eastern Shore and the master's of science and doctor of education degrees from the University of Pennsylvania. He has been a fellow of the Ford Foundation and the Kellogg Foundation and has conducted extensive research on critical problems in higher education relevant to racial autonomy, desegregation, and integration.

Since becoming president of Morgan State University, Dr. Richardson has fashioned an all-encompassing strategy for strengthening academic programs and stabilizing student enrollment, and Morgan now leads Maryland colleges and universities in the overall production of African-American baccalaureates and in the number of undergraduates in mathematics, science, and engineering.

The lodestar of Dr. Richardson's leadership at Morgan State University and in higher education is his commitment to establishing a strong foundation of excellence and achievement in the African-American community.

I just want to say I have had the opportunity to talk at some length with Dr. Richardson about the challenges that face historically black colleges and universities. He is a creative thinker and, I think, brings an important perspective to the discussion today.

Welcome.

Chairman MILLER. Thank you very much.

And, again, welcome to all of you.

Secretary O'Leary, we are going to begin with you. You will have 5 minutes to make your case, and the green light will go on when you begin to speak, a yellow light when you have about a minute to wrap up, but we expect you to complete your thoughts in good, clear sentences, and then a red light will come on. [Laughter.]

Mr. SCOTT. Mr. Chairman?

Ms. O'LEARY. Such a challenge, Mr. Chairman.

Chairman MILLER. Excuse me.

Mr. SCOTT. Mr. Chairman, before she starts——

Chairman MILLER. Mr. Scott?

Mr. SCOTT [continuing]. You did not call on me in time to introduce her, but Secretary O'Leary is from Newport News, Virginia, and we would like to especially welcome her.

Chairman MILLER. And we all know Mr. Scott is from Newport News, Virginia.

Ms. O'LEARY. Surely we do.

Chairman MILLER. Welcome.

STATEMENT OF HAZEL O'LEARY, PRESIDENT, FISK UNIVERSITY

Ms. O'LEARY. Thank you, Mr. Chairman and members of the committee.

The chairman has touched upon it. That is I have so little time and so much to say.

I brought a picture, but only you can see it. This is my favorite picture of Fisk University. It is a graduation with the young people wearing the cloth traditional of Ghana, and that is a good place to begin with Fisk University.

We are proud to report that our retention rate is at 86 percent, meaning our freshman getting to the sophomore year, and there we can hold them, except for financial crises. Our graduation rate is at 65 percent, ranking us 10 percent ahead of the graduation rate of all majority schools in the United States of America.

We have been recognized by the Chronicle of Higher Education for doing the best job of graduating low-income, first-generation students, but perhaps more importantly, as my students would want me to tell you, we hook them up, and by hooking them up, I mean, they go on to graduate schools or they go right into the world of work. Some 70 percent of the students at Fisk University enter a graduate program.

We like to talk about some of our peoples in academia. Fisk University holds the distinction of producing the largest number of African-Americans who go on to earn a Ph.D. in the natural sciences. That is stunning because normally our population of students is at about 900. We are on track in the next year to take that title with respect to physics graduates with Ph.Ds. I can point out to you that this year 15 African-Americans entered a Ph.D. program in physics. Nine of them were graduates of Fisk University.

That is the good work we are doing.

We are very proud of our academic excellence. For 16 years in a row, the Princeton Review has rated Fisk University in the 85th percentile of quality in education among colleges and universities in America. Recently, the U.S. News & World Report did a survey of historically black colleges and universities, 86 of them. Fisk ranked number five. Now, maybe 10 years ago or 20 years ago, we would have ranked number one, but it is important to tell you that we have managed to do this with an endowment of \$7 million.

Now, if that were the good face of Fisk, there is a face of Fisk that needs to be getting a little more makeup, as it were. We are very blessed this year to have caught the attention of the Andrew W. Mellon Foundation, recognizing that Fisk needs very quickly to build their endowment. They have given us \$1 million outright and set a challenge to give us another \$2 million if Fisk can raise \$4 million by the 30th of June. I am happy and proud to tell you that

we are approaching the \$2 million mark, and my suitcase is packed all the time so I know we are going to get there.

I want to go now to the heart of our problems, recognizing I have a minute and 10 seconds, and say to you that it is all about capital at a place like Fisk. One hundred and forty-two years old in October, we are the first university in Nashville, and we are blessed to have a campus that is listed on the register of historic sites, but with that comes an overwhelming requirement to take care of these beautiful buildings. When I arrived, deferred maintenance—the last study done in 1995—was at \$19 million. Fast forward and re-up that analysis, we are over \$30 million in deferred maintenance.

A few of the things that really work for us—if anybody has looked at Fisk's history and background, we would not have these stellar programs in science without congressional support. We have five centers of excellence that are supported by agencies of government, not the Department of Energy, but I think we can work on that one.

The other thing that is valuable to us are all of the grants coming to Fisk University out of Title III, it goes for operations and enhancement of our programs, and most importantly to use to lever endowment. So, as that Title III gets whittled away, opportunities for more capital to invest in a great university cease to exist. But we are going to do our job, at any rate.

I am a proud graduate of Fisk University. I say to my kids I came out in the last century, and the difference between today's Fisk and yesterday is that we are meeting the needs of brilliant and excellent low-income and first-generation college students, and I believe that that is our correct mission.

I thank you for the opportunity to sum up.

All right. I am going to get it done in a hurry. Every university represented here has a great story to tell, and I know that I am talking to the choir in this particular church to say that I understand that you understand our needs. The difficulty we will all have is with capital for the near term and the long term.

I just want to cite you an example. At Fisk, I looked it up before I left, of course, our debt service is approximately 10 percent of our budget. It could be a lot less if Fisk could simply refinance those loans. We will always carry debt. We cannot carry much more because everything at Fisk is already collateralized, and I would point out to all of you another thing that you know is that we are collateralized at too high a level.

We will do our job. We look very much forward to working with the committee, and I have had some great jobs in my life, but none as great as being the president of Fisk University.

I thank you for this opportunity.

[The statement of Ms. O'Leary follows:]

Prepared Statement of Secretary Hazel O'Leary, President, Fisk University

Mr. Chairman, and Members of the Committee: Thank you for the opportunity to discuss the importance of Historically Black Colleges and Universities to the nation. It is my intention that this conversation yields a better understanding not only of their historical significance but also of their current contribution to this nation's process of social mobility.

I believe that Fisk is an excellent example of the triumphs and opportunities that these institutions experience. Further, I believe that it will become apparent that

the challenges that many HBCUs cannot always be separated from America's higher educational crisis.

I would like to begin by giving a brief historical perspective of the storied history of Fisk University.

Fisk's Storied History of Academic Excellence

Founded mere months after the Civil War, Fisk was Nashville's first university. Fisk was established by John Ogden, Reverend Erastus Milo Cravath and Reverend Edward P. Smith and named in honor of General Clinton B. Fisk of the Tennessee Freedmen's Bureau. Fisk opened to classes on January 9, 1866 with the stated mission of providing a quality liberal arts education without regard to race. In fact, the children of many of the northern white instructors who came to teach at Fisk actually studied alongside African American students at a time when segregation was not just a social rule, but in many circles, a biblically sanctioned practice.

Many know about the world-famous Fisk Jubilee Singers. They started as a group of students who traveled to earn enough money to provide food and other critical support for the financially challenged school. The Singers raised enough money over the course of six years to build the first permanent structure in the country built for the education of newly freed slaves. They succeeded and funded construction of the renowned Jubilee Hall; the first permanent structure in America built specifically for educating African Americans.

During their performance for Queen Victoria in 1873, it was she who remarked that these fine young people surely must have come from a musical city. Hence, Nashville, Tennessee has prided itself in being promoted as Music City, U.S.A.

Our 42 acre campus is a National Historic Landmark and is on the National Registry of Historic Places and has been a living and learning environment of countless thousands of students, faculty, and administrators, some of whom are in the U.S. Senate and legislative bodies throughout the nation today.

- W.E.B. DuBois, sociologist, scholar, first African-American to earn a Ph.D. from Harvard; Founder of NAACP
- Dr. Bradley Sheares—CEO of Reliant Pharmaceuticals, formerly president of the U.S. Human Health division of Merck & Co., Inc., where he had commercial responsibility for the company's portfolio of prescription medicines for the treatment of chronic and acute diseases in the United States.
- St. Elmo Brady, first African-American to earn a doctorate in chemistry.
- Elmer Imes, 1st African American to receive PhD in physics
- Joyce Bolden, first African-American woman to serve on the Commission for Accreditation of the National Association of Schools of Music
- John Lewis, politician, civil rights activist, former President of SNCC
- Percy Lavon Julian, first African-American chemist and second African-American from any field to become a member of the National Academy of Sciences.
- Cora Brown, first African-American woman to be elected to a state senate
- Johnnetta Cole, anthropologist, former President of Spelman College and Bennett College
- John Hope Franklin, historian, professor, scholar, author of landmark text, *From Slavery to Freedom*, graduate of the class of 1935
- Nikki Giovanni, poet, author, professor, scholar
- Alcee Hastings, U.S. Congressman and former U.S. district court judge
- James Weldon Johnson, author, poet and civil rights activist, author of the "Negro National Anthem" "Lift Ev'ry Voice and Sing"
- Alma Powell, wife of Gen. Colin Powell
- Kay George Roberts, orchestral conductor
- Martha Lynn Sherrod, Presiding District Court Judge, first African American to win an at-large election in North Alabama since Reconstruction
- Matthew Knowles, President and CEO of Music World Entertainment and manager of Beyonce Knowles, his daughter

It was at Fisk that these, and many others who remain lesser-known contributors to American life and culture and beneficiaries of the social mobility earned, and continue to earn, by receiving a Fisk education.

While Fisk is known for producing some of the most thoughtful and globally engaged persons in the 19th and 20th Centuries, its 21st Century legacy has been and will be the matriculation and education of students who, at least statistically, are not expected to earn a college degree. The image of Fisk as a bastion of black middle class elitism has certainly given way to a talented and academically accomplished student body of which 91% must receive some form of financial aid in order to afford college.

In 1951, Fisk became the first HBCU to induct members into the prestigious Phi Beta Kappa Honor Society. We continue that legacy each year by adding to the membership ranks of that very prestigious liberal arts society.

It was a young civil rights organizer named Diane Nash who on May 10, 1960, having led a group of students from Fisk's campus to the Nashville mayor's office to confront him about a segregated downtown who employed the Socratic method learned in her courses at Fisk to get him to admit that segregation was not only harmful but morally wrong.

It was John Lewis who, while a student at Fisk and American Baptist College in Nashville, protested the segregated conditions of Nashville. John participated in the Freedom Rides to desegregate the South, and was a national leader in the struggle for civil rights. He became nationally known after his prominent role on the Selma to Montgomery marches, when police beat the nonviolently marching Lewis mercilessly in public, leaving wounds that are still visible today.

As well as being the incubator for many world changers with name recognition, equally important are the many unnamed teachers, business professionals, lawyers, scientists, and community leaders who claim proudly their participation in the Fisk experience. Among many other notable firsts, in 1952 Fisk University was the first historically black college or university to induct students into a chapter of Phi Beta Kappa Honor Society.

II. The Turning Point—Impact and Opportunity

In spite of having roots in northern philanthropy, Fisk's fortunes have paralleled the health of the overall economy as well as the funding environment experienced by many small liberal arts colleges and universities.

In addition to those economic variables, the social and demographic changes of the last half-century have also had an impact on our mission and have caused some public policy practitioners and potential donors to question the necessity of the HBCU.

In spite of increased competition from better-capitalized majority institutions, the fact remains that historically black colleges and universities account for 3 percent of the numbers of schools in this country but produce twenty-four percent of the African American college graduates in the United States.

Thomas Friedman's book *The World is Flat* presents the thesis that an increasingly developed world with rising standards of living across the globe means increased competition for limited resources on an unprecedented scale. It is for that very reason that our schools must get it right. This country needs all hands on deck if we are to prosper in the coming decades. The challenges are so great and the need for ethical leadership so intense that to leave any individual without opportunity is to threaten the security and progress of us all.

III. Reinventing a Historical Educational Institution with a Racial Designation

The designation of "historically black" frequently prompts some to question the social necessity of our schools. The key for Fisk's success is the assembly of two-way partnerships with public and private sector organizations. Fisk has employed this strategy in educating tomorrow's scientists.

According to a study conducted by the National Science Foundation, Fisk University, with a student population of under a thousand, graduates more African Americans who go on to earn the PhD in the natural sciences than any school in the nation, in spite of having a student body of fewer than 1,000 students. Our committed faculty, which includes a two-time R&D 100 Award winning physicist and winner of the Room Temperature Semiconductor Award has the flexibility to focus on the needs of individual students.

An important tool in our excellence in the sciences is the Center of Excellence in Physics and Chemistry of Materials (CPCoM) supported by the National Science Foundation and a second center of excellence is supported by the Department of Defense called the Center for Optical Logic Devices (COLD). It is through those centers that our masters to doctorate bridge programs in physics, biology and nursing find support and have continued and productive connections to graduate programs and research resources across the nation.

What is critical to our success in this effort are the ongoing relationships between government agencies and partner universities. Those relationships provide Fisk with financial and programmatic support that ensures robust and relevant academic programs in the areas of law, medicine, and other disciplines. Those universities span the country and include Howard University, Meharry Medical College, Vanderbilt University, Case Western Reserve University, Belmont University, and others.

In December of 2007, Fisk received a challenge grant from the Andrew W. Mellon Foundation that could bring a total of \$7 million to the University by June 30, 2008.

As we continue to raise the funds to meet that challenge, the University is also involved in what we have termed a re-alignment. That effort has as its goal the rebalancing of Fisk's core operations with its resources, in short, to build a Fisk with a smaller footprint with a taller steeple.

We started a ground-up analysis of all academic and administrative programs in the late fall. At the end of that process what will result is a business model that enhances Fisk's strengths, eliminates poorly performing areas and consolidates increased resources into programs that are viable but in need of increased investment.

IV. Financial Challenges

As I mentioned earlier, 91% of Fisk students receive some sort of financial aid. With competition from well-funded majority institutions Fisk has had to work harder to provide institutional scholarships and aid for top students.

This is where one of the key differences in a school like Fisk and a majority institution is most visible. We have demonstrated time and again that if we can admit and support a student in his or her first year there is a 86% chance that we will retain them for further study and graduation.

Conversely, many majority institutions, while they have less difficulty financing minority students, with few exceptions, they consistently have difficulty in retaining them from their first year to second and an even more difficulty graduating them.

A key initiative in which Fisk is currently engaged is the development of an endowed scholarship fund of which the corpus will generate funds to be used to attract academically talented students to Fisk.

This year, Fisk's entering class had an average GPA of 3.32 and an ACT score of 22.5.

V. The Pathway Forward

As one of the nation's flagship historically black universities Fisk has tremendous outcomes relative to its resources. The scientific, social, and cultural impact that a university should have through the creation of new knowledge is a critical part of what we work hard to improve everyday.

Funds from all sources, especially Title III and IV funds are sometimes the difference between possibility and impossibility for a number of Fisk University student oriented initiatives as well as research projects.

Title IV funds for Pell Grants are critical portions of Fisk's student's financial aid packages.

The use of Title III to encourage endowment growth is a key strategy to increase the endowment size and thus self-sufficiency of our schools.

Fisk receives grants from the following agencies:

- HUD provides community-based initiatives on campus.
- Interior Park Service funds help us to restore our historic buildings.
- Justice Department grants to enhance campus security.
- Department of Energy provides Fisk with research funding for the development of radiation detection equipment.
- National Science Foundation grants supports both undergraduate and graduate students engaged in material science research
- Space science related research is supported by NASA, including collaborations with NASA centers.
- Department of Defense supporting cutting edge research in optical sciences in collaboration with Idaho State University.

Chairman MILLER. Dr. Yancy?

STATEMENT OF DOROTHY COWSER YANCY, PRESIDENT, JOHNSON C. SMITH UNIVERSITY

Ms. YANCY. Chairman Miller, Ranking Member McKeon, I appear before you today to thank you all for passing the College Opportunity and Affordability Act of 2007 and reauthorizing and strengthening the Higher Education Act of 1965.

I come from the 12th District in North Carolina, Johnson C. Smith University, the home of Congressman Mel Watts. I appear before you to share some of the many ways in which the provisions in this act have helped Johnson C. Smith become a leader among

private liberal arts colleges. As I always say, at Johnson C. Smith, we have always been able to wash clothes without washing powder.

We have been recognized——

[Laughter.]

Ms. YANCY. That is right. We have had so little for so long that we have learned to live with it, but we could always use more.

We have a small endowment of \$53 million, and we are the beneficiary of the Duke Indenture. Over the years, we have been recognized by U.S. News & World Report as one of the best comprehensive colleges in the South since 2001. We are recognized as the first and only HBCU laptop university where all students are given laptops. And in 2007, we were also ranked in the top 10 of HBCUs in America by U.S. News & World Report.

But we are most proud of what happened in 2000 when Yahoo ranked JCSU as one of the top 50 most wired small colleges. I, therefore, encourage you to settle all of your differences on H.R. 694, the Minority Serving Institution Act, regarding digital and wirelessness because we all need that. Most of our students, so many of our schools, are only 88 percent in terms of their connectivity, in terms of just the basic connectivity, and 45 percent of the students at our schools, HBCUs, do not have a laptop.

I would also like to remind you as to why we exist. We exist because we serve a particular population. We were created at a particular time when special purpose institutions were created, as you have already mentioned, but we must remind you constantly that we are not obsolete, that we must continue to exist. If we did not exist, we would have to create us.

The most powerful reason for our existence has to do with economics. Educational preparation results in higher income levels, strengthens America's society. Everyone knows that a college graduate will always earn more than a non-college graduate, even though we know that the average African-American with a bachelor's degree will earn \$1.7 million in a lifetime whereas a white college graduate will earn about \$2.1 million. We play a critical role in fulfilling the higher education gap, and we plug what we call the economic gap which was first identified by the Kerner Commission.

You have already stated that there are so few of us, 4 percent, yet we graduate so many, 30 percent, of African-American students. But there is another problem here. According to the data from the NSF, six of the top 20 predominantly white institutions receive more federal funds for research than 79 HBCUs combined. If we are to have adequate research facilities and if we are to be competitive, we must receive more federal funds for research. I would argue that that a continued investment in HBCUs is a good investment for this country and for this nation.

Johnson C. Smith was created in 1867 by the Presbyterian Church. Now somewhere along the way—you know, Presbyterians can be quite feisty—we seceded from the church in 1868, and so we have been an independent institution ever since.

But there is something I really would like to thank you for, and that has to be the Title III funding. Since 1997, Johnson C. Smith has received more than \$17.5 million. We have used these funds, and we have pinched the pennies. We have developed technology

infrastructures. We have dealt with aging facilities, maintenance, upgrades, and renovations. We have dealt with personal resources. We have dealt with data management infrastructures, institutional planning, and effectiveness in assessment of student success, and persistence to graduation, and we have also look at alternative funding.

But we have also institutionalized many of the programs that we have started. We, for example, have built an information center and office of mobile computing. We have an institution of planning, assessment and effectiveness program, sponsored programs, research, academic retention, and support services, faculty development, facilities management, tutorial services, and discipline-based computer technology.

What I am trying to tell you is if you give us some dollars, we have taken these dollars and we have institutionalized, and we have not simply thrown them to the wind.

One concern that I have here is Title IV. Title IV is a great program. Eighty-three percent of my students are receiving financial aid. But, as I look at my students, they are being impacted disproportionately by the economy. For example, this year, 1,000 students applied for the family—I call them parent loans. Only 500 of them qualified because of bad debt. That meant that many of those students had to go to alternative loans which have high interest rates. Of those students, I had 15 percent of my students acquiring alternative loans.

So you need to understand that the economy has impacted us. I read an article that came out yesterday that said less than 10 percent of the students in this country were getting alternative loans and they were all at for-profit institutions. That simply is not true. They are also attending our schools, and they are being impacted in a disproportionate way.

I would argue that Pell has to be increased, which you have already agreed to. I would argue that the Title II's, Teacher Quality Enhancement Provisions have to be strengthened. I would argue that in terms of challenges, endowments have to be dealt with. We probably have one institution with an endowment of more than \$500 million. That is a crisis. You have to have money in order to continue to strengthen your programs, pay your bills, and just do the things that you have to do to have a successful institution.

The other thing that we need to look at is sustaining leadership within our institutions. I am retiring. I am looking forward to it. [Laughter.]

But I also know that the pipeline of presidents, CFOs, provosts, et cetera, is fairly thin, and there also needs to be something done about the training of trustees and people who sit on these boards from the state levels who determine what happens to our institutions. Sometimes they know little or nothing about education, but they become experts once they are appointed.

But that is about all I have to say. I will take questions afterwards. [Laughter.]

Thank you very much for your time.

[The statement of Ms. Yancy follows:]

Prepared Statement of Dr. Dorothy Cowser Yancy, President, Johnson C. Smith University

Chairman Miller, Ranking Member McKeon and Members of the Committee, thank you for affording me the opportunity to appear before you today on behalf of Johnson C. Smith University, located in North Carolina's 12th Congressional District, where I have served as President for fourteen years this month. Thank you for hosting this very important hearing on "America's Black Colleges and Universities: Models of Excellence and Challenges for the Future." I thank the National Association for Equal Opportunity in Higher Education (NAFEO) for requesting this hearing and for all that the Association did to provide information to Committee Members and staff as you shaped this hearing.

Johnson C. Smith University is a UNCF member institution along with thirty-nine (39) other private Historically Black Colleges and Universities (HBCUs). Johnson C. Smith is also a member of the National Association for Equal Opportunity in Higher Education (NAFEO), the membership association of the presidents and chancellors of private and public HBCUs and the newly recognized Predominantly Black Institutions (PBIs), some one hundred twenty (120) institutions, representing roughly 400,000 students, more than 25,000 faculty and more than 4 million alumni. NAFEO's more than 120 member institutions are located in twenty-five states, the District of Columbia and the Virgin Islands.

I appear before you today to thank you Mr. Chairman and to thank Ranking Member McKeon, Congressman Ruben E. Hinojosa, Chairman of the Subcommittee on Higher Education, Lifelong Learning, and Competitiveness, and all of the Members of this Committee for passing "The College Opportunity and Affordability Act of 2007" reauthorizing and strengthening the Higher Education Act of 1965, as amended through the years. I appear also to share with you a few of the many ways in which provisions in the Higher Education Act have helped to make Johnson C. Smith University a leader among private liberal arts colleges in the nation. JCSU has been recognized by U.S. News and World Report as one of the best comprehensive colleges in the South since 2001, it is recognized as the first and only HBCU laptop University where all students are given laptops, it is ranked in 2007 by U.S. News and Reports as one of the top 10 HBCU's in America, and it was ranked by Yahoo in 2000 as one of the top 50 most wired small colleges. Today I offer a few suggestions for strengthening the Act during reconciliation of the House College Opportunity and Affordability Act (H.R. 4137) and the Senate Higher Education Amendments (S. 1642) and Senate bills. Given the time constraints this morning, I have prepared a written statement that I will submit for the record. I will share just a few observations with you this morning.

Before I share my observations, I want to recognize Congresswoman Virginia Foxx, a member of this Committee and North Carolina's congressional delegation, representing the 5th Congressional District that includes Clemmons and Boone. I want to extend my special appreciation and that of the HBCU community to Congressman Bobby Scott, the Chairman of the Congressional Black Caucus' Braintrust on Education, who is a steadfast champion of education excellence, access, equity and for the strengthening and enhancement of the phalanx of HBCUs. We appreciate Congressman Scott's leadership and that of Subcommittee Chair Hinojosa that resulted in many of the provisions for strengthening HBCUs contained in "The College Opportunity and Affordability Act of 2007." The leadership of Congressman Scott, Chairman Hinojosa and others on the Subcommittee also resulted in the inclusion in the Budget Reconciliation Act of new dollars for HBCUs, HACU institutions and other MSIs, for which we are also grateful.

For more than 100 years, the Nation's Historically Black Colleges and Universities (HBCUs) have struggled to overcome their institutional legacy of segregation and differential treatment at the hands of the states and the Federal Government that was exacerbated by the lack of primary and secondary education provided to the slaves, and later complicated by segregated K-12 schools. HBCUs exist in 21st Century America in a virtual higher education vacuum—viewed by some, including some African Americans, as a relic of America's segregated past and having no real place or role in America's presumably diverse higher education community. The HBCUs are questioned by others who questioned their effectiveness at overcoming the educational deficits of many students enroll at these institutions, and challenged by others because they benefit from special funding like Title IIIB of the Higher Education Act of 1965, as amended.

Historically black colleges and universities, which represent a unique source of hope and advancement, have consistently performed the important function of helping African Americans hone their talents in order to contribute to American society. Much of the diversity among institutions in the higher education community was

birthed in an earlier time when so-called “special purpose” institutions were created due to the exclusion of women, Catholics and Jews, the disabled, and others from “traditionally white institutions.” Just as institutions serving these segments of the American population have not become obsolete, institutions founded to meet the educational needs of African Americans have not become obsolete. While it remains commonplace to question the function and presence of the HBCUs—most recently by U.S. Civil Rights Commissioner Abigail Thernstrom in a November 30, 2007 Wall Street Journal column—Charles V. Willie answered the “Why Black Colleges?” question in a 1979 *Change Magazine* article:

A self-centered attempt to save Black institutions for Blacks would be as damaging as an other-directed effort to remake them in the image of whites. Both actions ultimately would end in defeat. Black colleges and universities must be prepared for their value to society as a whole. A higher education system with a Harvard but not a Hampton is incomplete. Black colleges and universities have a future in our society because of their function.

The most powerful reason for encouraging and supporting the 103 historically black colleges and universities is economic. Educational preparation resulting in higher income levels strengthens American society by creating productive citizens and the financial and human costs associated with uneducated, unproductive and non-participating citizens in the American enterprise. It is estimated, over a lifetime, that the average U.S. citizen with a baccalaureate degree will earn \$2.1 million, while a person with a high school diploma will earn only \$1.2 million. This ‘earnings gap’ is much wider for African Americans. The average African American with a bachelor’s degree will earn \$1.7 million, while the average African American with a high school diploma will earn about \$1 million.

The HBCUs play a crucial role in filling the higher education gap, and hence they also plug the economic “gap” that was first identified by the 1968 Kerner Commission Report, whose twentieth anniversary was just celebrated. Title IIIB of the Higher Education Act defines “a part B institution” as “* * * any historically black college or university that was established prior to 1964, whose principal purpose was, and is, the education of Black Americans. Yet, it is important to note that many of our public and private HBCUs have diverse student bodies including many white students, Latinos, and international students from all around the globe.

HBCUs today represent only 4% of all higher education institutions, but they graduate approximately 30% of all African-American students, 40% of African American students receiving a four-year degree in STEM, and 50% of African American teachers. These successes are attributable in part to resources made available through the Higher Education Act. The successes were achieved despite the fact that in recent year’s federal support for HBCUs has only increased in very modest amounts; and in spite of the fact that HBCUs continue to receive significantly less funding for research, facilities, and programs than their historically white counterparts. According to data from the National Science Foundation, for example, 6 of the top 20 predominantly white universities received more federal funds for research than 79 HBCUs combined.¹ The NSF report shows that despite a quantifiable record of success at educating African American scientists and engineers, HBCUs continue receiving disproportionately fewer federal dollars. This pattern if left unabated will pose a barrier to black colleges remaining comparable and competitive with historically white institutions. The pattern must be reversed. With the amendments you made to the Higher Education Act, with my proposed actions by the conference committee, and suggestions advanced by others on this panel with me this morning, the pattern will be reversed. Continued investment in HBCUs is good for the HBCU community, good for the nation and good for the world.

To provide a clear understanding of the extent to which support under Titles IIIB, IV, of the Higher Education Act has assisted Johnson C. Smith to evolve into the world class liberal arts university that it is today, I will briefly share with you something about the history and growth of Johnson C. Smith in recent years.

Johnson C. Smith was founded in 1867 under the auspices of the Committee on Freedmen of the Presbyterian Church; U.S.A. Johnson C. Smith is an independent, private, coeducational institution of higher learning. JCSU has received over \$17.5 million dollars since 1997 in federal support under the federal formula. These institutional dollars have enabled Johnson C Smith to institutionalize strategic practices and improvements

¹ Richard J. Bennof, “FY 2005 Federal S&E Obligations Reach Over 2,400 Academic and Non-profit Institutions; Data Presented on Minority-Serving Institutions” Info Brief National Science Foundation NSF 07-326 (revised), Directorate for Social, Behavioral, and Economic Sciences, October 2007.

The following target areas of the Comprehensive Development Plan (CDP) describe recurrent institutional challenges and strategic purposes that have persisted over the past few years and reflect both national as well as local themes we must continue to address:

- Maintain an effective and developmental technology infrastructure (hardware, software, people, training) to support the administrative and academic mission of the university
- Aging facilities require on-going maintenance, upgrades, and renovations to support new development in curriculum and instruction.
- Academic innovations require additional personnel resources as well as recurrent training to improve quality.
- Data management infrastructure to support institutional planning, effectiveness, and assessment to support effective decision-making
- The institutional enrollment profile and mission requires us to provide special programs to insure student success and persistence to graduation.
- Increasing cost in utilizing technology and shrinking institutional budgets requires us to develop our institutional capacity to generate alternative sources of funding.

What we have come to realize is that these CDP target areas reoccur in some shape or form whenever we begin to engage issues of planning, development and resource allocation. They are, and will continue to be for some time, a strategic challenge for the institution as it evolves its future. Title III supports the development of project activities to reduce the effect of these recurrent themes on the programs of the University. Title III has supported us in capacity-building to solve our recurring strategic challenges.

Institutionalization of Title III activities will continue to occur as we integrate Title III activities. This is evidenced historically by the fact that the following offices were developed by Title III funding and continue to play a role in Title III program development:

- Information Center
- Office of Mobile Computing
- Institutional Planning, Assessment, Effectiveness and Research
- Sponsored Programs and Research
- Academic Retention and Support Services
- Faculty Development
- Facilities Management
- Tutorial Services
- Discipline Based Computer Technology

A portion of the work of these well established offices still coordinate in the development of new and critical Title III activities. We have achieved a kind of transparency with Title III and institutional development. This integration of Title III and these critical areas of concern have been progressively interwoven into the fabric of the institution as new administrative and academic services primarily supported by institutional funds. New activities of these offices will extend the evolution and work on these recurring and persistent problem areas and our Title III partnership will result in new institutionalized capacity in the form of new offices, programs, and personnel.

The “Strengthening Historically Black Colleges and Universities” program has been, and continues to be, not only the principle source of institutional assistance for Johnson C. Smith, but for the vast majority of HBCUs. Since its inception, the Title IIIB program has been very successful in supporting strategic planning initiatives, academic program enhancements, administrative and fiscal management, student services, physical plant improvements, and general institutional development.

The Title IIIB dollars are transforming HBCUs to meet the challenges of a new century with cutting cutting-edge projects in agriculture, science, technology, and international education. Title IIIB dollars are also enabling HBCUs to provide vital education, health care, human needs, economic and community development, and recreation services for the communities in which they are located.

Finally, the Title IV Student Assistance programs have enabled Johnson C. Smith University to maintain its student enrollment with 83% of its students receiving financial aid.

Recommendations

Pell Grant Program—I strongly support improvements in the Pell Grant program; especially the proposed increases in the Pell Grant maximum award to more clearly reflect the cost of tuition and fees at four-year public colleges and universities. Of course, the cost of tuition and fees at private institutions, like Johnson C. Smith University, is generally higher than that of public institutions, but at this point in

our nation's history in which a college education is vitally important, we should make a national commitment, at a minimum, to afford funding for those of least advantage who are desirous and prepared for college to be able to afford the cost of a public 4-year institution. Congress should retain the current \$4000 minimum and establish a maximum award linked to the tuition and fees of the cost of a public 4-year college according to the annual College Board Cost of College report. Students at Johnson C. Smith University commonly work two and three jobs to make ends meet.

I appreciate and applaud the inclusion in both the House and Senate Higher Education Act reauthorization bills, on a bipartisan basis, of provisions that establish student eligibility for a Year-Round or "third semester" Pell Grant.

Teacher Quality Enhancement—There is a great deal more to do. The Title II Teacher Quality Enhancement programs contained in both the House and Senate reauthorization bill will strengthen our teacher education programs in a significant way. The changes incorporated in Title II of both the House and Senate bills targeting funds on partnerships composed of institutions of higher education, local education agencies (LEAs), especially "high need" LEAs, non-profit organizations, and others, and the removal of states as partner grantees will focus limited resources on entities located closest to those involved directly in preparing teachers and in providing professional development for existing teachers. The HBCU community is especially pleased with the language in the House bill, H.R. 4137, that provides for Development Leadership Programs for partnerships that would focus on the preparation of superintendents, principals and other school administrators, and gives priority in the award of partnership grants to teacher preparation programs that have a rigorous selection process, i.e. NCATE accredited institutions with PRAXIS-related graduation requirements. Johnson C. Smith is such an institution, and we will encourage your Senate counterparts, especially those in the North Carolina delegation to accept this House-passed, important provision.

I strongly support the Augustus F. Hawkins Centers of Excellence provisions in H.R. 4137 that are designed to provide funds for HBCUs and MSIs, or consortia of such institutions, to strengthen their teacher preparation programs. The Augustus F. Hawkins Centers of Excellence in Teacher Education would enable ten HBCUs, like Johnson C. Smith, with exceptional Departments of Education, to establish or enhance collaborative centers of excellence in which to prepare highly qualified teachers to close the achievement gap that plagues minority students, who in turn, will disproportionately opt to teach in the most underserved communities. The funding to create state of the art teacher training facilities contained in the legislation for the institutions that house these centers, to create s, will be immeasurably helpful to those of us who are meeting not only the needs of our states for exceptional, diverse teachers, but for the nation, with sparse resources.

Other issues and challenges

The historically black colleges and universities are not without their challenges as they continue to mature as institutions and compete in the larger arena for private and Federal funding support, as they seek out African American and other students in a highly competitive admissions climate, and as they strive to keep their infrastructure and instrumentation competitive with their peers in the higher education community. Let me mention several issues that are at the core or my concerns as I leave the presidency of Johnson C. Smith University at the end of the academic year.

Endowment Building and Institutional Development—Fewer than five HBCUs have endowments that exceed \$500,000 and only one that exceeds \$1 million. Institutional endowments represent necessary shelter against the winds of change in higher education, especially for small, private colleges like Johnson C. Smith. Most of the HBCU institutions have low or no endowment to speak of, and too many struggle just simply to pay their bills on time, provide scholarship funds for needy, highly qualified students, and to pay faculty and staff a quality salary. Competition for private sector and foundation support and for Federal grant and contract dollars, including congressional "earmarks" has intensified—as public and private colleges compete for declining resources and donors insist upon a quid pro quo or recognition for large gifts or grants.

Institutional Accreditation—At least three two-year and five four-year HBCUs have had their accreditation withdrawn by the Commission on Colleges of the Southern Association of Colleges and Schools (SACS) or Commission on Higher Learning of the North Central Association of Colleges and Schools during the past two decades. Many other public and private HBCUs have been sanctioned by SACS and other regional accrediting agencies, and continue to operate in a fiscally "at-risk" posture that threatens their continued existence and viability.

Two-Year Colleges: Morristown College; Clinton Jr. College; Shorter College; Mary Holmes College.

Four-Year Colleges: Barber Scotia College; Edward Waters College; Knoxville College; Morris Brown College; Texas College.

Clinton Jr. College regained its accreditation with another accrediting association. Texas College successfully restored its accreditation with SACS within two years. Edward Waters successfully pursued litigation against SACS and secured a settlement that provided a path for the restoration of its accreditation. Knoxville College and Morris Brown College remain open without regional accreditation.

Sustaining Institutional Leadership—One of the most pressing challenges facing the HBCU community is the identification and preparation of quality institutional leadership for the presidency and the first-tier of institutional leadership, especially Vice Presidents for Fiscal Affairs/Chief Financial Officers (CFOs), Chief Information Officers (CIOs), Provost/Vice Presidents for Academic Affairs, Vice President for Institutional Development, and Graduate Deans (where appropriate), etc. Our needs in these areas are strained by limitations in the available pool of applicants, salary limitations, etc. Rapid turnover in the presidency or chancellors, in the public sector, also impacts the tenure of the first-tier administrative staff and executives. A related and challenging question has to do with the skills and abilities of HBCU trustees or boards of directors. Training and skill development—including developing an understanding of the roles and duties of trustees is critical, especially as it relates to search and selection of the president or chancellor. This issue is complicated among the private colleges by self-perpetuating boards and in the public sector by the gubernatorial power of appointment or election of public institutional trustees.

The above are just a few of my observations regarding the many improvements to the Higher Education Act contained in “The College Opportunity and Affordability Act of 2007.” I again express my deep appreciation for the determination of this Committee to move this bill forward, but not at the expense of denying the public, and especially the broad and diverse stakeholders, an opportunity to participate in the deliberative process.

Conclusion

The Higher Education Act is one of the most important pieces of legislation to the institutions that are among the constellation of colleges and universities we call HBCUs. These institutions were founded before 1964 to educate black Americans who were, at the time of their founding, denied access to most historically white colleges and universities (HWCUs). HBCUs were defined in the 1986 Amendments to the Higher Education Act by their mission and purpose, not by the racial or ethnic make-up of their student enrollment. Many HBCUs have increasingly diverse student bodies, including my own institution, Johnson C. Smith, which has as its mission providing outstanding education for a diverse group of talented and highly motivated students from various ethnic, socioeconomic, and geographic backgrounds. We enroll 1470 students from many backgrounds, although the majority of my students are African American. Many have few financial means. They overwhelmingly share a thirst for knowledge and the belief that the familial atmosphere at Johnson C. Smith is aligned with their preparation and their aspirations.

Title IIIB of the Higher education Act, the provision on Strengthening the Historically Black Colleges and Universities, has been especially important in assisting Johnson C. Smith University to become a model of excellence, and in enhancing the 96 other HBCUS that are receiving funding under this provision. Title III, Part D of the Act, the HBCU Capital Financing Program has enabled many of the HBCUs to build and maintain facilities and an infrastructure to attract to and retain competitive students at our institutions. Title IV, Student Assistance has exponentially expanded access to higher education for low-income, first generation and traditionally underserved students—those who are the majority of students attending Johnson C. Smith.

I thank you for affording me the opportunity to share these observations with you this morning.

Ms. O’LEARY. Well done, Dorothy.
Chairman MILLER. Dr. Sias?

STATEMENT OF MARY EVANS SIAS, PRESIDENT, KENTUCKY STATE UNIVERSITY

Ms. SIAS. Good morning, Chairman Miller and members of the House Committee on Education and Labor. I appreciate you afford-

ing me the opportunity to speak to you this morning, and my remarks will really center on two things: the continued viability of historically black colleges and universities and the expansion of Section 326(e)(1) Eligibility of Historically Black Graduate Institutions program contained in H.R. 4137, Section 306.

When I read the newspapers daily and I listen to the news, I see that we have challenges and we will continue to have those challenges confront us for a very long time in our complex world. Solutions are not going to come from simply the privileged few who have had the opportunity for a quality education, but rather from those whose ACT and SAT scores may be modest, but they have had a chance to receive a quality education at historically black colleges.

Our strength as a nation must come from how we structure and afford our students quality educational opportunities. For more than 100 years, more than 105 HBCUs and universities provided access and opportunity not only to black students, but to underserved students who wanted a chance. HBCUs have stood in the gap and served as a bridge for those students.

Now, as an HBCU president, I am often asked, "Are HBCUs viable? Do they continue to be relevant?" And my answer is always a resounding, "Yes." But there are some in this country, people like George Mason Professor Walter Williams, and other syndicated columnists, who have mistakenly represented what life at HBCUs is really like.

Dr. McNealy, a colleague who is sitting behind me, said that what they have said is akin to "yelling fire in a theater when there is none. That is not acceptable as legitimate free speech because of the harm that it does."

What is even worse is when you have someone who is not there, who has not seen anything, who took what someone else said, and on secondary information yells that there is a fire. That is even worse because it perpetrates an untruth and does great harm.

HBCUs did not create the problem and the challenges they face. Rather, they have stood at the forefront of the fray ready to help find solutions.

Let me tell you I know you know the numbers. I know you know how many students we enroll. I know you know how many people we graduate. I am not telling you everything is great. It is not. Like our counterparts, we should be graduating more students, and if we have more resources and we can build our capacity, we will graduate more students.

We want to graduate students who can critically think, who can integrate knowledge, who can speak concisely and coherently, and who can use technology. These are the students who stand in the forefront. These are the students that we are going to count on to lead us and become the next generation of leaders.

For K State and other HBCUs, we take the terror of poverty, hunger, fear, and hopelessness, and we turn it into hope, and with a little bit more money and capacity, we can do even more.

That leads me to my second point. I would like to talk a little bit about how we need more graduate programs. The reauthorizing legislation proposed amendments to Section 326 that would among other things allow a limited number of master's degree programs

to receive grants in much the same manner that the HBBI program by admitting a small number of qualified institutions. The Senate bill would allow Fayetteville State, Grambling, West Virginia, and Kentucky State to receive grants for our eligible graduate and professional programs. I know you know this, Representative Yarmuth.

The Senate has made this conclusion based on its interpretation of the language. I am not going to read all of it to you, but I want you to know that I know and I know you know that the language says qualified graduate program, meaning graduate or professional programs that provide programs of instructions in physical and natural science. It does not say terminal programs or anything else of the sort.

Kentucky State University has a national reputation for our program in aquaculture. We believe that we meet every element of that program language, and we want to be included in the non-competitive language. The program appears to the Senate and appears to K State to meet all those qualifications. I know this committee disagrees and has taken the position that the language appears to apply to graduate and professional programs without limitations to terminal degrees.

I want to ask you to reconsider that in your conference hearing. Please do so. And I want you to know that I hope the Senate will continue to keep this in that language.

And I want to thank the committee, however, for committing and creating H.R. 4137 as an alternative to HBCU masters degree programs in Title VII of the Act. Kentucky State would be eligible, but that is not enough. We want to be eligible on the non-competitive side.

In closing, I want to thank you for your commitment to historically black colleges and universities. By your actions every day, you tell us that you want to support the next generation of students. Our journey begins today, and I know we can count on you.

My grandmother is from the country, and she told me when I stood out watching her feed the chickens and churn butter that, "Honey, why are you standing up there not doing anything?" And I said, "Grandma, nobody told me to be involved." And she said, "Don't ask or be told what to do. Just simply assign yourself."

Thank you. HBCUs have been assigning themselves every day, and we want you to join us in that challenge. Thank you for this opportunity.

[The statement of Ms. Sias follows:]

Prepared Statement of Mary Evans Sias, Ph.D., President, Kentucky State University

Good morning Chairman Miller and other members of the House Committee on Education and Labor. I appreciate the Committee affording me the opportunity this morning to express my views on two issues: 1) the continued viability of historically black colleges and universities and 2) the expansion of Section 326 (e) (1) Eligibility of Historically Black Graduate Institutions program contained in H.R. 4137, Section 306.

As I read the newspaper daily and listen to the news, I see that as a country we have challenges that will continue to confront us for a very long time in this complex and troubled world in which we live. The solutions will come not only from the privileged few who have often had quality education reserved for them, but also from those whose ACT and SAT scores may have been very modest but still received a quality education.

Our strength as a nation must come from how we structure and afford our students educational opportunities.

For more than 100 years most of the 105 historically black colleges and universities have provided access and opportunity not only to Black students but to any underserved students who entered our doors.

At a time when the demand for a college education is climbing toward a universal expectation * * * that is a college degree will very soon be like a high school diploma * * * HBCUs have responded and stepped up to the mark. They stand and have stood ready to admit and enhance the skills of countless students who would have been "left waiting at the door". HBCUs have stood in the gap and served as a bridge for tens of thousands of such students.

Recently, there has been some discussion about whether HBCUs continue to be viable. In fact, I am often asked that question as a president of an HBCU. The answer I give is a resounding "Yes"; HBCUs are and continue to be needed and are as vital now to the educational system in America as they have ever been.

One of the great strengths of America is that it made a decision and a commitment to try to afford all Americans a chance to receive a quality education. Current demographic changes in America show that blacks and browns will be more than half of the students we educate in the next five to six years. Educating all of American's people is an urgent priority. No one can do it better than HBCUs.

Scholars like George Mason, Professor Walter Williams and other syndicated columnists have mistakenly represented to a large degree what life is like at HBCUs. One of my colleagues, Dr. Ernest McNealy at Stillman College says what they have said is akin to "yelling fire in a theater when there is none. That is not acceptable as legitimate free speech because of the harm that it causes. Standing in a theater and yelling that someone else said that there is a fire is dangerous because the perpetrated untruth further exacerbates the original harm".

While they were nodding, HBCUs which account for only 3% of the nations more than 4,000 colleges and universities, found themselves enrolling 16% of African Americans at the undergraduate level. HBCUs also continue to account for nearly 30% of all baccalaureate degrees and 40% of all first professional degrees to African Americans.

The numbers do not mean HBCUs are perfect and we certainly have many areas to improve. Dr. J.T. Minor recently in a recently published piece called, "Contemporary HBCUs: Considering Institutional Capacity" reports that HBCUs like their white counterparts are losing far too many students. According to a survey by The Education Trust, only 60% of all college students complete undergraduate study in six years. Seventy percent of all students who attend HBCUs are classified as low-income which contributes to even lower graduation rates at many HBCUs.

The encouraging news from this report noted by Lezli Baskerkerville, president of NAFEO, the National Association for Equal Opportunity is that increasing the capacity at HBCUs and investing in their missions, which include remediation of students ill-served by the PK-12 system, can reverse the trend.

Institutions like Kentucky State University and other HBCUs you will hear about this morning are highly effective in providing access to higher education to students that we will rely on tomorrow. In Kentucky 52% of all high schools student graduating need at least one course in remediation. For African American that number is 77%. KSU and other HBCUs take the terror of poverty, hunger, fear and hopelessness and turn it into hope.

On more than 100 small and mid size campuses across this nation, our historically black colleges and universities have responded to the call to produce students who can think critically, integrate knowledge and then communicate that knowledge clearly to others. They have taught students to care about the problems facing our communities and to use technology and innovation to help solve those problems. HBCUs have always stood willingly to be a part of the solution. That has been our legacy and continues to be our mission. We stand as ready today as we ever have been to make a difference.

While money may not cure all the ills of our educational system and of HBCUs in particular, having adequate resources will go a long way in helping to provide a quality education for all those who need it.

I want to thank the Committee for creating in H.R. 4137 an alternative HBCU Masters Degree program in Title VII of the Act, for which Kentucky State is unquestionably eligible. This provision is sorely needed to create a pipeline to terminal degree programs at our institutions.

The new program, an alternative HBCU Masters Degree program in Title VII of the Act created in H.R. 4137, fashioned and advanced by NAFEO and TMCf, is designed to provide institutional awards to HBCUs and minority-serving institutions that are not eligible to participate in the Title IIIB HBGI program in section 326

of the Act. I believe that Masters Degree programs that do not lead to doctorates are deserving of federal financial support, and that this competitive grant program can be of immense assistance to building the capacity of our institutions. Indeed, the Senate bill that includes Kentucky State in Section 326 includes a program that authorizes competitive grants to nursing programs to expand faculty and facilities. The non-competitive funding to designated qualified institutions under Section 326 is what makes that provision and our inclusion in the Senate bill under that Section so attractive.

Both Section 326 and the new Masters Degree program you incorporate in the House bill are about building capacity. You have heard about the number of African Americans and minority students who graduate with their masters from HBCUs in the fields articulated. These provisions will certainly better position the HBCU community to expand opportunities and do a better job of meeting the workforce needs for highly qualified, compassionate, diverse professionals in high need, hared to fill scientific disciplines.

In closing, I want to thank you for your commitment to Historically Black Colleges and Universities. By your actions and commitment you show each of us daily that there is hope for the next generation of African Americans and minority students.

We continue to need your help and support. Our future and the futures of the next generation of students depend greatly on each of you and the actions you take.

Our journey begins today. My grandmother, a true Renaissance woman, once told me when I was standing around and looking at her work * * * feeding the chickens, churning butter and washing heavy quilts, "Don't wait to be told what to do; assign yourself."

HBCUs have always "assigned" themselves. We ask that you join us in this effort. Thank you. I would be happy to answer any questions you might have.

Chairman MILLER. Thank you very much.
Dr. Richardson.

STATEMENT OF EARL S. RICHARDSON, PRESIDENT, MORGAN STATE UNIVERSITY

Mr. RICHARDSON. Yes. Thank you. Thank you very much, Mr. Chair. Thank you, Mr. McKeon, for your support, Congressman McKeon, over the years and now to Chairman Miller.

Let me just say that I appreciate the introduction by my congressman, John Sarbanes, and he and I have talked over and often about the value of our black colleges.

I appear today to join my colleagues and guests talking about the great value and contribution of our historically black colleges, but, more important, to emphasize the great potential and the great promise that these institutions have for addressing some of the more vexing problems related to the social, economic, and political welfare of our society.

I am passionate about this because I believe that the realization of that promise is fleeting, and with every fleeting moment, I believe the impact on our society is devastating.

At this point in time, I think that it has been now about five decades, a little better than five decades, since Brown. It has been over four decades since Title VI of the Civil Rights Act. It has been more than 16 years since Fordice. And, yes, much has been done to improve our historically black colleges, but nowhere near the amount that needs to be done to make us comparable to our white counterparts, nowhere near enough to make us as competitive in attracting students regardless of race and regardless of their academic achievement level.

And so I think that there is now an urgency. There is an urgency about moving us toward that standard of comparability that we have been striving for for now over a half-century.

In the State of Maryland, the demographics are moving so quickly that now you are seeing, as you saw in *The Washington Post* just a few days ago, about what the changing demographics are in our country, and just a few months before then, there appeared in the *Sun* paper of Baltimore a similar article. And we oftentimes talk about the relevance of that for our institutions of higher education.

Well, those demographics are briefly saying to us that the minorities that we have so often spoken about are now very shortly going to be the majority, and those are the persons that are experiencing the greatest difficulty in terms of educational achievement and in terms of how they are able to move from the elementary, secondary level to the post-secondary level.

Yet this is the pool, this is the pipeline from which this country will have to draw the workforce, and so we believe that it is imperative that we move to now ensure that these institutions that have served that minority population very, very well, that they now be made equal to and comparable to the majority institutions in our state and in our country.

As I look at what is happening in our own State of Maryland—by the way, I am a native of Maryland. I went to elementary school there. I went to high school there. I got my undergraduate degree there before going on to the University of Pennsylvania. And so I have a long history with it.

I was there in the 1960s when we were marching in the streets, marching to remove the separate but equal and for us separate and unequal, and it pains me now that even 50, almost 60 years later that we still have not achieved that higher mark that we were striving for in the 1960s.

But I want to emphasize here that I think that that promise is still before us. I think that that promise can be realized if, indeed, we can move within our states on some of the compact agreements.

In the State of Maryland, we had a compact agreement—several—but the last one lasting from 2000 to 2005, and after that, of course, the State of Maryland did, indeed, send a report in saying that we had, indeed, complied with all of the requirements of that. Later on, a group that represented the interests of our historically black colleges, the Maryland Coalition for Equity and Excellence in Higher Education, submitted a rejoinder questioning many of the positions in that document. We still are waiting to find out what the disposition is of: one, the agreement; two, the response of our state; and, three, the rejoinder that was submitted by the third party on behalf of our historically black colleges.

You have heard from Congressman Sarbanes of Morgan's productivity within the State of Maryland, the largest producer of African-Americans, and we have heard the term over and over again "African-American" or we have the term "historically black colleges". Let me simply say you should not be uncomfortable with the term.

Historically black colleges are designations, represents a fact of history and not a statement of exclusion. We are open to students regardless of race and, yes, the difference between our institutions

and the other institutions is that, yes, we want some of the most talented students. We want as many as we can get. But within our community, according to the standards that are now used on SAT scores, that represents only 12 percent to 15 percent of our students.

And we happen to believe that you cannot just discard the other 85 percent, that we have to provide some way to move that other 85 percent to a level that they can be productive citizens, that they can, too, move through our elementary and secondary schools and then to our post-secondary schools and become the productive citizens that you want. We can make them the scientists and the engineers and the teachers and the professors, all of those things, but, indeed, it has to be under the circumstances that we provide to our students at our other institutions.

So let me just sum up by saying, Mr. Chair, I think that our historically black colleges have done an excellent job over the years, and I think they hold great promise for these changing demographics if, in fact, we can have our institutions develop to a level of comparability and parity so that we are as competitive as other institutions in attracting students regardless of their race and regardless of their background and regardless of their academic achievement.

Thank you so very much, Mr. Chairman, for the opportunity to speak.

[The statement of Mr. Richardson follows:]

Prepared Statement of Dr. Earl S. Richardson, President, Morgan State University

Chairman Miller and distinguished members of the Committee, I am deeply honored to be a part of this panel and I thank you for the opportunity given me to share my thoughts and perspectives on the continuing efficacy of Historically Black Colleges and Universities as well as the continuing need for the federal government to oversee and enforce the effective compliance of the several states with applicable civil rights laws as pertaining to students especially served by these institutions. At this point and time in our nation's long, bloody journey towards equal justice under law and civil rights for all regardless of race and color—particularly with respect to equal educational opportunity—I can think of no more urgent matter for which this Committee should convene a hearing.

As pertaining to public education, we are now 54 years into the implementation and enforcement of the mandate of *Brown v. Board of Education*, which implementation and enforcement, I might add, was to be done “with all deliberate speed.” While we would be disingenuous if we failed to acknowledge that significant progress has been made, we would also be irresponsible if we were to conclude that the promise of *Brown* has been fully realized—or even partially realized—for a vast number of low-income, minority students in this country, particularly in the South where segregation and discrimination on the basis of race was institutionalized by law. That unrealized promise is this: public education, “where the state has undertaken to provide it, is a right which must be made available to all on equal terms.”

With respect to public higher education in particular, we are also now 35 years past the seminal *Adams v. Richardson* cases seeking some sense of accountability from what is now the United States Department of Education, Office for Civil Rights, to enforce compliance of the states with *Brown* and other governing law, including Title VI of the Civil Rights Act of 1964, at the college and university levels. Moreover, we are 16 years past the landmark decision in *United States v. Fordice* imposing affirmative obligations on former de jure segregated states to dismantle their dual systems of higher education and eliminate the vestiges of segregation to the extent practicable. Of great significance here is the obligation of states, such as Maryland where I live and serve, to affirmatively act to remedy all policies and practices traceable to its prior system of segregated education and to eliminate any such present or continuing policies and practices that foster discrimination or perpetuate conditions indicative of the prior dual system.

Again, I believe that most states can fairly report significant progress in some facets of dismantling their prior segregated systems. In other facets, however, progress has been painfully slow. And regrettably, in key areas there has been nothing short of recalcitrance on the part of states with respect to their affirmative obligations. Instead of progress in recent years, in some instances there has been a trending backwards. These areas include academic program development, operating budgets and facility upgrades where Historically Black Institutions remain less-developed, chronically underfunded and disadvantaged in the struggle to level the playing field in the competitiveness of all public colleges and universities in attracting students of varying academic achievement levels, backgrounds, race and ethnicity.

Let me emphasize first, however, that in the face of continuing challenges, the value of Historically Black Institutions continues to rise in astounding ways, maximizing both the choice of students of all races who seek higher learning in their communities and the efficiency of public institutions that offer opportunities for higher learning on their behalf.

In a public statement issued earlier this year, the presidents of Maryland's four Historically Black Institutions of Higher Education, of which Morgan State University is one, documented this value and the continuing relevance of these institutions in meeting the critical educational needs of the citizens of the State. For example, these institutions account for 64% of African American undergraduates enrolled in the State's public four-year institutions. That enrollment includes many high-achieving high school graduates as well as a significant number of students not eligible for admission to more selective institutions. The best prepared students enrolled at the Historically Black Institutions graduate at the same rates or better than similar students at other public institutions.

The Historically Black Institutions also do remarkably well in graduating other students, though many are forced to drop out or stop out for a period of time because of unmet financial needs or other academic difficulties often related to their economic circumstances and the need to work full-time jobs. Reports of the Maryland Higher Education Commission clearly establish a direct correlation between unmet financial need and low retention rates.

Moreover, the Historically Black Institutions have been productive beyond their enrollment percentages. In 2006, they accounted for 56% of the bachelor's degrees awarded to African Americans by traditional public four-year campuses, 49% of the master's degrees awarded to African Americans, and 55% of the doctorate degrees awarded to African Americans. In the critical fields of the sciences, engineering and education, the Historically Black Institutions awarded 52% of the bachelor's degrees in computer science awarded to African Americans by traditional public four-year campuses, 50% of the degrees in education, and 64% of the degrees in health fields.

At the master's level, the Historically Black Institutions accounted for 35% of the degrees in computer science awarded to African Americans, 55% of the degrees in education, 60% of the degrees in health, and 44% of the degrees in engineering (with only one HBI awarding degrees in the discipline).

The significance of the Historically Black Institutions in degrees awarded to African Americans is even more pronounced at the doctoral level where, in 2006, they produced 75% of the degrees in education awarded to African Americans by traditional four-year public institutions, 60% of the degrees in engineering, and 100% of the degrees awarded in the health fields.

These outcomes in Maryland clearly demonstrate that the Historically Black Institutions serve a valuable mission and provide a unique contribution to educating the citizens of the State and nation in a manner that is not possible by relying alone upon the Traditionally White Institutions. The HBIs have great potential for educating students across the spectrum of academic achievement; however, their value is especially evident with respect to those low-income, minority students who have been sorely underserved by public schools in their communities and who do not meet the criteria of the more selective public universities. To those isolated from educational and economic opportunity because of poverty and other socioeconomic circumstances, the Historically Black Institutions remain critical to the hope of finding opportunities to break through what otherwise might seem to be insurmountable barriers on the way to higher learning and enhanced opportunities to participate in the economies of their state, nation and world. Many of these students receive their opportunities at the Historically Black Institutions and thrive when the doors are opened to them.

All of this substantiates the promise of developing a unitary system of education in our states, free of the stain of discrimination and segregation that officially beset us in the past and that will surely, if not fully remedied, thwart our progress into the future—a system where an excellent and equitable public education “is made available to all on equal terms.”

Despite their effectiveness, efforts to enhance Maryland's Historically Black Institutions have been slow and exceedingly limited. Each campus continues to grapple with operating budgets that, though increasing over the years, fail to close the historic funding gap between these institutions and the Traditionally White Institutions in the State. Each campus continues to have very serious capital needs for renovation and replacement of existing buildings, as well as new facilities and equipment. Each campus faces disadvantages in the development of high demand academic programs that are not unnecessarily duplicated at geographically proximate Traditionally White Institutions. All of which hinders their ability to attract new students and otherwise accomplish their significant roles and missions.

Of great importance to addressing and resolving these remaining gaps and disparities is the fact that African Americans, Hispanics and other minorities now constitute the majority enrollment in Maryland's public elementary and secondary schools. These students represent, in large part, the pipeline from which the future workforce for the State's knowledge-based economy will be drawn. Sadly, this new majority also represents the greatest deficits in high school achievement as well as in bachelor's, master's and doctoral degree production. Addressing this condition must be among the highest priorities of the State and, because of their proven effectiveness—even in the face of great disparities and neglect—the Historically Black Institutions will continue to be invaluable assets and resources in meeting these challenges. It is absolutely counter to the State's best interests to limit or otherwise fail to enhance or develop these institutions. In doing so, the State would only limit choices, opportunity and access to higher education for African American, Hispanic and other minority students. It is long past time to maximize the human capital potential of all the citizens of our State through the enhancement of the Historically Black Institutions in a unitary system of higher education.

We have confronted these challenges and fought these battles on many fronts over a period of several decades now. We have long pursued a course leading toward the legal and moral standard of comparability and competitiveness of the Historically Black Institutions and their Traditionally White counterparts through litigation, administrative oversight and enforcement, legislation and other means of advocacy and public policy. While State efforts to enhance the Historically Black campuses have made these institutions much better than they were decades ago, the institutions still are far short of achieving parity with the majority campuses, a major principle of federal desegregation law. In some states, including Maryland, federal oversight has failed to apply the enforcement necessary to bring the states into compliance with the applicable federal law. As a result, often in the face of recalcitrance by the states, disparities and problems remain. And comparability and competitiveness remain an elusive mandate which states are all too willing to ignore. Worse, the mere passage of time has become the justification for doing nothing more to achieve this parity. This simply cannot be acceptable.

In 2008, the State of Maryland remains under the jurisdiction and oversight of the United States Department of Education, Office for Civil Rights, with respect to its equal educational opportunity obligations under federal law. This formal oversight began as early as 1969 when what is now called "OCR" notified Maryland that it was one of ten states operating a racially segregated system of higher education in violation of Title VI and applicable federal desegregation law. Over a period of several years, Maryland worked toward the development of a plan for dismantling its discriminatory dual system and eliminating the vestiges of segregation. In 1976, however, after OCR advised Maryland of its concerns with the State's implementation of its plan, Maryland was granted an injunction prohibiting OCR from instituting enforcement action to terminate Maryland's federal financial assistance unless certain conditions were met. Negotiations between OCR and the State resumed over the development and implementation of a new desegregation plan, and a consent decree ending the litigation was entered in 1982.

In all, formal plans or "Agreements" between OCR and Maryland were executed in 1980, 1985 and 2000. The 1985 plan was accepted by OCR as meeting the requirements of Title VI so long as the State implemented the plan in good faith. Its principle objectives were (1) the continued integration of Maryland's Traditionally White Institutions through a portfolio of enrollment goals, recruitment measures, retention efforts, and affirmative action plans, and (2) the enhancement of Maryland's Historically Black Institutions to ensure that they were comparable to and competitive with the Traditionally White Institutions with respect to operating budgets, capital facilities and new academic programs. The plan explicitly incorporated many of the provisions of the 1980 plan, including goals, commitments and measures in undergraduate accessibility, graduate and first-professional accessibility, enrollment in specific disciplines in which African American students were underrepresented, student financial aid, employment, and representation on governing boards.

While the State submitted annual reports to OCR through May 1991 asserting compliance with the plan, OCR never conducted a compliance review or issued a ruling or notification as to whether Maryland had achieved good faith satisfaction of the plan and complete compliance with Title VI.

In 1992, the Supreme Court issued its landmark *United States v. Fordice* decision setting forth the legal standards imposed on former de jure segregated systems of higher education. Subsequently, in 1994, OCR issued its Notice of Application of Supreme Court Decision applying the Fordice standards to all pending Title VI evaluations of statewide higher education systems with OCR-accepted desegregation plans that had expired, including Maryland. Included in the Notice was OCR's position that states may not place an unfair burden upon African American students and faculty in the desegregation process and that state systems of higher education may be required to strengthen and enhance their Historically Black Institutions. No evaluation, however, was conducted and it wasn't until 1999 that OCR initiated efforts with the State to establish a partnership for the purpose of improving the educational opportunities of African Americans in Maryland's public institutions of higher education and ensuring compliance with the State's obligations under Fordice and other applicable federal law, including Title VI and the progeny of *Brown v. Board of Education*.

That Partnership Agreement, executed in 2000 for a stated period of five years, remains in place to date with little or no enforcement measures imposed upon the State by OCR. Also in place are the legal standards articulated in the Agreement and which form the basis for the Agreement, imposing affirmative obligations on the State to dismantle its prior dual system of higher education and eliminate the vestiges of segregation to the extent practicable, including present policies or practices traceable to the prior dual system that continue to foster discrimination or perpetuate segregated conditions indicative of the prior dual system.

Of the several obligations and commitments of the State of Maryland set forth in the Partnership Agreement, of most significance are these: (1) developing high-demand academic programs at the Historically Black Institutions and ensuring that they are not unnecessarily duplicated at nearby institutions—thereby expanding mission and program uniqueness and institutional identity at the Historically Black Institutions; and (2) designing and implementing measures which ensure that the Historically Black Institutions are comparable to and competitive with the Traditionally White Institutions in all facets of their operations and programs.

Each commitment is firmly grounded in governing federal law and set forth in detail sufficient to accomplish the stated task and ensure compliance with such law. Each commitment is set forth to ensure that the Historically Black Institutions are enhanced and empowered to provide equal opportunity for a quality education to all students who choose to attend them and to enable them to compete for and be attractive to students regardless of race. As may be necessary, these commitments include enhancing: the distinctiveness of the Historically Black Institutions' programmatic missions; the uniqueness and mix of quality academic programs that are not unnecessarily duplicated at proximate Traditionally White Institutions; operational funding consistent with the mix and degree level of academic programs, support for the development of research infrastructure, and support consistent with the academic profile of students; lower student-faculty ratios appropriate to support their missions; the expanse, functionality and architectural quality of physical facilities; the appearance, attractiveness and ambiance of campus and surrounding public infrastructure, including roads, lighting and public transportation; and funding to support students' quality of campus life.

In no instance, however, has the State been held to demonstrate implementation of either or any of these commitments, nor has the State been reviewed as to its compliance with its obligations under the Agreement and governing federal law. It is my position, based upon a substantial record, that in large measure the State has yet to meet its obligations under the Agreement and, in fact, that it has affirmatively acted, in some instances, in violation of its obligations under the Agreement and applicable law. Documented instances of unnecessary duplication of academic programs are noted, in particular.

In light of these circumstances and due, at least in part, to the lack of enforcement activities on the part of OCR, the Historically Black Institutions and other interested or affected parties are, in essence, forced to pursue relief in other venues, including courts and legislatures. An institution's options to pursue a judicial remedy, however, are extremely limited and, in some instances, are non-existent without the enactment of legislation authorizing the pursuit of judicial review. This has prompted the repeated proposal of legislation in the Maryland General Assembly over the past three years that would allow a Historically Black Institution to seek judicial review of decisions of the State, through the Maryland Higher Education

Commission, approving the unnecessary duplication of existing programs at the institution by a geographically proximate Traditionally White Institution. In each instance to date, the legislation has failed to be enacted. This leaves the State's decision making process for the approval of academic programs without a judicial check, even though such decisions are to be made within the context of governing State and federal civil rights laws.

At least one private coalition has filed a law suit in federal district court to challenge the State's decisions, actions or non-actions with respect to the unnecessary duplication of academic programs and other obligations under the OCR Partnership Agreement and applicable State and federal law. But the Historically Black Institutions themselves are left without a remedy to pursue. This only serves to underscore the significant and detrimental impact of OCR's non-enforcement activities upon Historically Black Institutions and the students who choose to attend them. It is a profoundly disturbing problem that needs to be addressed.

OCR's failure to act also opens the door for the State to attempt to address related issues through other political measures that may or may not give deference to the existing obligations set forth in the Partnership Agreement. For example, the Maryland General Assembly has recently created the Commission to Develop the Maryland Model for Funding Higher Education. The Commission has determined that it will attempt to define what it means for a Historically Black Institution to be comparable to and competitive with a Traditionally White Institution and what it might take to achieve that status from a budgetary point of view. While there is potential for progress from such an endeavor, the Historically Black Institutions remain concerned that the Commission's analysis of the issue is going forth without a clear commitment to define the task under the Partnership Agreement and within the parameters of the specific obligations of the State of Maryland under federal civil rights law. At the very least, it is an attempt by the State to fill the void caused by OCR's failure to enforce the terms and conditions of the Agreement or to conduct a meaningful review of the State's compliance with federal law.

These are just some of the issues I wish to bring to your attention today. I am hopeful that my thoughts and perspectives are of some help to the important work of this Committee. In summary, I emphasize the remarkable and, at times, immeasurable value of the Historically Black Institutions and their continuing validity in this nation's long struggle for equal educational opportunity and excellence in education for all of its citizens. I also emphasize the significant need for active and continued oversight from the federal government, enforcing upon the states compliance with their obligations under federal law. In the end, OCR can and must be a much more effective means by which any continuing policy or practice that fosters discrimination or perpetuates conditions indicative of the prior dual systems of higher education are eliminated root and branch and by which the Historically Black Institutions are, at long last, made comparable to and competitive with their Traditionally White counterparts.

Thank you for your consideration. I am happy to respond to any questions or otherwise provide you with further information.

Chairman MILLER. Thank you.
Mr. Pierce?

**STATEMENT OF RAYMOND C. PIERCE, DEAN, NORTH
CAROLINA CENTRAL LAW SCHOOL**

Mr. PIERCE. Thank you, Mr. Chairman.

As you mentioned in your introduction, I am currently the dean of the School of Law at North Carolina Central University School, one of only four historically black law schools accredited by the American Bar Association and created during the days of apartheid and segregation.

Prior to becoming dean of the law school, I served as the politically appointed Deputy Assistant Secretary of Education in the Office of Civil Rights from 1993 to 2000.

Clearly, one of the first pressing matters that faced the Office of Civil Rights at the Department of Education at that time was the recent decision by the United States Supreme Court some 4 or 5 months earlier in the *Ayers v. Fordice* case that was mentioned by

Dr. Richardson. In that case, the United States Supreme Court set a new standard with respect to state compliance with the equal protection clause of the United States Constitution as it relates to the education of African-Americans attending historically black colleges and universities, not just in the State of Mississippi but throughout the country.

The concern expressed by presidents of historically black colleges, universities, and civil rights organizations was what would be the Clinton administration's and the Department of Education's response to that Supreme Court decision. In light of the fact that the country had been within a higher education desegregation docket, an effort of higher education desegregation docket, going back to the 1970s, it involved all 19 states of the United States of America that have publicly supported historically black colleges and universities.

We took that Supreme Court decision and basically upgraded the federal policy on higher education desegregation as to reflect what the United States Supreme Court said, which was basically that states have an affirmative duty to remove all vestiges of the past practice of segregation to the greatest extent practical that have a present-day effect.

Up to that time, we were operating under the old 1978 higher education desegregation policy, which basically was a two-part policy designed to remedy the past practice of segregation by enhancing and strengthening historically black institutions to provide them with educational opportunities that heretofore had been constricted because of days of apartment and segregation.

With the new policy, the Office of Civil Rights then went forward to enforce that policy by addressing those states that still had outstanding Title VI violations. Understand, Mr. Chairman, you have seven states right now in this country that are continuing to receive federal dollars for educational purposes, higher education, that are operating with outstanding Title VI violations, Title VI meaning that law that prohibits discrimination on the basis of race, color, or gender, and entities receiving federal funds.

I would question whether if there was a state in this country receiving federal funds for environmental purposes and yet that state was in violation of federal environment protection laws if that state would still be able to receive federal funds for its environmental purposes, but that is what you have going on here in our country.

By the time we left the Department of Education in 2000, we had successfully negotiated a settlement agreement with all the remaining states, consistent with the new policy, settlement agreements that included some hundreds of millions of dollars of increased funding, educational programs, partnership agreements, quite a number of items that had been, for the most part, cooperatively entered into with the states and the federal government.

Unfortunately, at the conclusion of our administration, it did not take long at least for me to begin to hear calls and cries that states were retreating from those commitments, so much to the point where you probably have a clear case of breach of contract between the federal government and states that had committed to do certain things to bring their states in compliance with Title VI of the 1964 Civil Rights Act and address all concerns as enunciated by

the Supreme Court with respect to the equal protection clause of the United States Constitution.

The NAFEO group that has its summit here today asked our law school, the North Carolina Central University School of Law—by the way, one of your members is a proud graduate of our law school. That is Congressman G.K. Butterfield.

NAFEO asked our law school if we would examine the current state of the law to determine whether or not litigation could be brought against the federal government Office of Civil Rights to make the Office of Civil Rights enforce its own compliance agreements, understanding that that was what was done back in 1977 to cause at that time the Department of Health, Education, and Welfare to get its Office of Civil Rights to actually enforce higher education desegregation policy. Our thought was that that would have to be done again. Unfortunately, unfavorable decisions going back to 1989 and going forward have now made that difficult, almost impossible.

I believe that the Office of Civil Rights at the Department of Education has some outstanding career employees. I worked with them. I supervised them. I hired many of them. But it is clear to me that the last enforcement of federal civil rights policy at the Department of Education is an agenda. It is because it is not high on the list, the action is not one appreciated, and therefore states are beginning to retreat from not only their commitments, but also engage in educational policies that are, quite frankly, adverse to the health and wellbeing of historically black colleges and universities.

And, Mr. Chairman, I would ask that not only my testimony here, but the statements of this panel which reference many documents that are contained in these appendices, be admitted to the record.

Thank you.

[The statement of Mr. Pierce follows:]

**Prepared Statement of Raymond C. Pierce, Dean and Professor of Law,
North Carolina Central University School of Law**

Good morning. My name is Raymond C. Pierce and I currently serve as Dean and Professor of Law at North Carolina Central University School of Law. Our law school is one of four remaining Historically Black Law Schools accredited by the American Bar Association that were created during the era of segregation. Our Law School received a grant from NAFEO to examine certain issues affecting Black Colleges within the context of the law and Federal education policy.

Prior to becoming Dean of the law school I had earlier served in a political appointment as Deputy Assistant Secretary for Civil Rights at the United States Department of Education from April 1993 through August 2000. My primary role was in policy development and enforcement of federal civil rights laws in education.

Clearly the first and most pressing issue that was presented to the Office for Civil Rights (OCR) upon my arrival to Washington was the question of what would be the federal government Department of Education's reaction to the then recent 1992 U.S. Supreme Court decision in *Ayers v Fordice*. The Ayers case had been decided seven months earlier on a Fourteenth Amendment Equal Protection issue on the state of Mississippi's obligation to remedy remaining vestiges from the past practice of segregation in higher education as they presently impacted African Americans attending the state's Historically Black Colleges.

Some initial reactions to the Supreme Court decision that I recall attributed to the state of Mississippi included suggestions that the state could close all of the Historically Black Colleges as a method of resolving any continuing vestiges of the practice of segregation. Black College leadership nationwide was understandably concerned that state systems of higher education would retreat further from obligations and commitments to Black Colleges and advance more state policies adverse to

these institutions. During the 1970's all 19 states with publicly supported Black Colleges created during segregation were involved in investigations and/or litigation involving federal higher education desegregation efforts. In many of these instances litigation had been initiated by private citizens seeking equal educational opportunities for African Americans.

The result was fifteen states entering into settlement agreements with OCR involving plans designed to remedy vestiges of segregation and bring compliance with Title VI of the 1964 Civil Rights Act as it applied to states with federally funded programs in higher education. Five other states were unable to reach agreement and proceeded to litigation with Mississippi going all the way to the United States Supreme Court. In 1989 the U.S. Department of Education concluded that eight of the fifteen states that had earlier entered into settlement agreements had now reached compliance with federal civil rights laws. Against protests from many Black College Presidents, these eight states were released from federal higher education desegregation oversight. These states were: Arkansas, Missouri, Oklahoma, Georgia, South Carolina, North Carolina, West Virginia and Delaware. Six states remained under federal oversight and were held responsible for continuing adherence to the settlement agreements and the compliance plans designed to remedy the vestiges of segregation. These states were: Kentucky, Pennsylvania, Maryland, Virginia, Florida and Texas.

In early 1993 and in response to the concerns expressed by Black College Presidents and civil rights and other civic organizations, OCR began a development process that ultimately produced new federal civil rights policy on higher education desegregation and Title VI which prohibits discrimination in federally funded education programs. This new policy was published in early 1994 as a Notice in the Federal Register. The basic foundation of the policy was that states have an affirmative duty, to the greatest extent practicable, to remove all vestiges of the past practice of segregation that have a present day effect.

The foundation of the policy was drawn from the majority opinion of the Supreme Court in the 1992 Ayers case. In addition the new policy built upon earlier federal education higher desegregation policy published in 1978 which was titled: Revised Criteria for the Desegregation of State Systems of Higher Education. That policy was composed primarily of two elements. One: the strengthening of Black Colleges through increased resources for upgraded and additional educational programming. Two: affirmative action programs in recruitment of African American students to attend Traditionally White Institutions and recruitment of White students to attend Black Colleges. The first part was designed to address the constricted educational opportunities of African Americans attending Black Colleges due to years of discriminatory treatment by state systems of higher education in violation of the Fourteenth Amendment Equal Protection Clause. In addition the policy of strengthening Black Colleges was also designed to remove distinctions of quality of educational opportunity between Black colleges and White Colleges and allow for attracting students more on the basis of programming and less on the basis of race.

It is important to note that the earlier 1978 policy was developed as a result of litigation brought against OCR and the U.S. Department of Health, Education and Welfare for failing to enforce federal civil rights laws. That litigation resulted in the 1977 U.S. Court of Appeals decision in *Adams v Caliafano*.

The new policy following the 1992 Ayers case added a "vestiges analysis" to the standard by which states would be measured for compliance with Title VI. This meant that states efforts towards compliance through increased resources and other actions on behalf of Black Colleges would be examined to determine whether following such efforts there are any remaining vestiges from the past practice of segregation that have a present day effect on the educational opportunities of African Americans that could be practicably eliminated.

In 1994, and immediately after the new policy was published the six states that remained under federal oversight were notified that they would be reviewed for compliance pursuant to the new policy and that they may be required to take action in addition to that articulated in the earlier settlement agreements.

Ohio had not been one of the states entering into one of the earlier settlement agreements during the 1970s and early 1980s and had been amongst those states headed for litigation in the federal courts. After the 1994 publication of the Ayers v Fordice Notice in the Federal Register, OCR and the U.S. Department of Justice agreed to remove Ohio from the litigation list allowing OCR to pursue efforts for a settlement agreement with the state.

From 1995 to 2000 following extensive reviews, discussions and negotiations all seven states (including Ohio) entered into new and mostly five year compliance agreements designed to resolve the federal government's docket of higher education desegregation cases. These new compliance plans addressed many new and en-

hanced educational programs for Black Colleges and commitments of additional resources. Each state was notified that OCR would conduct compliance reviews following the expiration of the term for implementation of the plans. Again, most of these plans were designed to be implemented over a five year period.

At this date all of the settlement plans have expired and to my knowledge OCR has not concluded any review to determine whether the efforts of these states have resulted in compliance with Title VI.

Since leaving OCR I have repeatedly been made aware of grave concerns expressed by Black College Presidents and alumni regarding actions by states in recent years that are adverse to the letter and spirit of federal desegregation policy and the various settlement agreements. I hear of these concerns mostly in Ohio and Maryland centering around issues of unnecessary program duplication and inadequate funding for institutional mission. Actions in these two states and others are largely regarded by those concerned as posing significant threats to the ability of Black Colleges to be competitive in higher education. Further, there has never ceased to be concerns of unequal treatment of Black Colleges expressed by Black College leadership in some of the eight states that were found in compliance in 1988 prior to the development of the new policy in 1994.

The National Association for Equal Educational Opportunity (NAFEO) awarded a grant to North Carolina Central University School of Law to examine these issues and the law with regard to possible new litigation similar to that in the *Adams v. Caliafano* case that could result in moving OCR to perform its Congressionally mandated duty of enforcing federal civil rights laws in education in particular as they relate to the seven states with remaining outstanding Title VI violations.

Initially I held a position that their remained a basis for litigation against OCR for failure to enforce federal civil rights laws similar to the charge brought against OCR in the *Adams v. Caliafano* case. Research at NCCU School of Law concluded that federal court decisions subsequent to *Adams* will no longer allow legal action against a federal agency as it was done in the 1970's that resulted in moving OCR to take action to enforce federal civil rights laws that would benefit Black Colleges.

The reality of federal court decisions having left no avenue for pursuing litigation against OCR presents these hearings as ever more critical in halting state actions that would negatively impact public Black Colleges unnecessarily. It is also before this Committee as to what is the reaction by Congress towards a Department of Education that continues to appropriate federal funds to state systems of higher education that are operating in violation of federal education civil rights laws as determined by OCR. OCR must be called upon to conduct the long overdue reviews and analysis and make the determinations as to compliance for the remaining seven states. Whether such analysis will result in additional resources for the effected Black Colleges or a determination of compliance, some movement by the federal government is required to bring closure to its docket of higher education desegregation cases that stretches back over thirty plus years.

A point with respect to the leadership made available to Black Colleges through the involvement of state systems of higher education. Outstanding men and women have served and continue to serve our Nation's Black Colleges. Many in this leadership have produced near miraculous results in their mission of educating students. However, it is my belief that the numbers of talented education leaders currently on these campuses is too low for the demand. It has been my observation during and after my seven years of directing federal higher education desegregation efforts that Black Colleges suffered greatly from a loss of talent as a result of affirmative action that attracted many Blacks in higher education away from Black Colleges and into positions at Traditionally White Colleges. This loss of talent in addition to continued policies adverse to Black Colleges in my opinion have caused harm to these institutions leaving many of them in weakened conditions lacking the ability to effectively compete in higher education.

State higher education commissions must review their relationships and policies towards Black Colleges with a view of improved expectations and improved treatment in the selection of leadership at both the college and on the board. There can be no room for disparity in the quality of appointments by states made at Historically Black Colleges in comparison to White Colleges. Indeed, given the continuing harm from years of differential treatment of Black Colleges it is imperative that states apply the highest of standards in making appointments to the leadership and management of Black Colleges no less than those appointed to the leadership of Traditionally White Colleges.

OCR should be able to conclude its higher education desegregation docket. It should result in further enhancement and strengthening of Black Colleges. State higher education commissions must reach a level of full and comparable inclusion

for Black Colleges. I believe this will be a major step towards concluding the federal government's oversight of these cases.

[The report prepared for NAFEO follows:]

**Report Prepared for NAFEO, by the North Carolina Central University
School of Law**

An analysis of the current state of federal policy and case law relative to potential legal actions on behalf of Historically Black Colleges in the era after the U.S. Supreme Court decision in *Ayers v. Fordice*.

I. Procedural Background

In 1969 and the early 1970s, the Department of Health, Education and Welfare (HEW) found that 19 southern and border states had violated Title VI of the Civil Rights Act of 1964 (Title VI) based upon their failure to dismantle their previously segregated systems of public higher education. During the 1970s, based, in part, upon HEW's failure to ensure that these states corrected their Title VI violations, the Federal District Court oversaw the Federal government's efforts. (See more detailed discussion re Adams litigation, *supra*, section II.)

As a result of the oversight by the Federal courts and a number of district court orders, HEW (and later the Department of Education's (ED) Office for Civil Rights (OCR)) entered into a number of statewide desegregation plans. The states' obligations under these plans were to take affirmative steps to eliminate de jure and de facto segregation. A particularly important aspect of each plan was to recognize the historical importance of traditionally and historically black institutions (HBCUs) in meeting the educational needs of black students in those states. The court instructed HEW (and later ED) to ensure that the transition from a dual system to a unitary one would not be accomplished by placing a burden upon black students, faculty or institutions. Consistent with this requirement, HEW/ED required that all statewide desegregation plans have specific commitments to enhance their HBCUs.

Enhancement of state HBCUs included increasing institutional resources—facilities, course offerings, faculty, etc. * * * Particularly important was the requirement that the states take specific steps to eliminate educationally unnecessary program duplication between HBCUs and traditionally white institutions in the same service area. The objective of eliminating program duplication and increasing institutional resources was to enhance desegregation by ensuring that the HBCUs were on par with the traditionally white institutions so that all students would be drawn to institutions on the basis of their program offerings, faculty, etc. and not on the basis of race. The states were required to desegregate while ensuring that they did not do so at the expense of the HBCUs. (See "Revised Criteria Specifying Ingredients of Acceptable Plans to Desegregate State Systems of Higher Education" 1978, attached.)

Throughout the late 1970s and 1980s, HEW and later ED monitored the implementation of statewide desegregation plans received from a number of states. HEW/ED referred those states that refused to enter into agreements that remedied the Title VI violations to the Department of Justice (DOJ) for enforcement [One of the states that was referred to DOJ was Mississippi, the litigation that followed that referral eventually reached the Supreme Court. *United States v. Fordice*, 505 U.S. 717 (1992).]

By the late 1980s, OCR determined that a number of the states had fulfilled their statewide desegregation plans and released them from further monitoring. OCR, however, determined that some states, even though their agreements had expired, had continuing obligations to address the Title VI violations found.

In 1994, based upon the Supreme Court's decision in *Fordice*, ED OCR informed the states that had not been previously released from monitoring (Florida, Maryland, Pennsylvania, Kentucky, Texas, and Virginia) that it would be reexamining their state higher education systems consistent with the standards enunciated in the *Fordice* decision to ensure that the vestiges of their previously segregated systems had been eliminated. [See Notice of Application of Supreme Court Decision, 1994 (*Fordice* Notice) attached.] Consistent with the Supreme Court's decision in *Fordice*, OCR informed those states that they could not place unfair burdens upon black students and faculty when initiating desegregation efforts. Additionally, OCR stated that the results of its reexamination might well require enhancement of the HBCUs. Between 1996 and 2001 OCR entered into new agreements with each of those pending states and the State of Ohio (ED had referred Ohio's Title VI violation to the Department of Justice in the 1980s but a lawsuit was never filed.) A

major component of each agreement was the enhancement of the HBCUs. While some of the pending agreements have expired, none of these states has been released from OCR's monitoring.

II. Legal Background

Section 601 of Title VI provides that "No person * * * shall, on the basis of race * * * be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." HEW/ED's regulation enforcing Title VI, at 34 CFR 100.3(b)(6)(i), requires that "In administering a program regarding which the recipient has previously discriminated against persons on the basis of race. * * * the recipient must take affirmative action to overcome the effects of prior discrimination."

Under complaint procedures established by HEW and later adopted by ED, once OCR investigates and determines that there is a violation, the agency must take compliance efforts to ensure that Federal monies do not support discrimination. The ultimate sanction by the agency, if a voluntary resolution to remedy the violation is not achieved, is termination of federal assistance.

It is beyond dispute that these southern and border states violated Title VI. All had previously de jure or de facto segregated systems of public higher education. All have been found, by the agency charged with enforcing Title VI, to have violated both the statute and the regulations, by intentionally creating, maintaining, and failing to eliminate the effects (vestiges) of their prior systems. All were required to take affirmative obligations to overcome their prior intentional discrimination and had not done so.

In 1970, a private complaint was filed in Federal district court against HEW and the Attorney General for adopting a policy of non-enforcement of Title VI. Without addressing directly the issue of a private right of action against the Federal government under Title VI, the court granted plaintiffs' prayer for declaratory and injunctive relief. *Adams v. Richardson*, 356 F.Supp. 92 (D.D.C. 1973). The court's oversight to ensure that the agency remedy its failure to enforce Title VI was later expanded to include Title IX of the Education Amendments and Section 504 of the Rehabilitation Act. The court orders and supervision that followed became known as the Adams Orders. In effect, those Orders placed the agency's investigative and enforcement activities and policies under federal court supervision for almost 20 years. One aspect of the court's broad oversight concerned ED/OCR's failure to ensure that the states remedy the discrimination that the agency had found in the states' public higher education systems.

In 1979, the Supreme Court in *Cannon v. University of Chicago*, 441 U.S. 677 (1979), held that there was an implied private right of action under the civil rights statutes against federal fund recipients who engaged in prohibited discrimination. *Cannon*, without deciding an issue not squarely before it—a private right of action against a federal agency—did caution against extending this private right of action to suits against federal agencies, absent specific legislative intent.

Almost 11 years after the decision in *Cannon*, the US Court of Appeals for the DC Circuit affirmed the district court's dismissal of the Adams litigation based, in part, on the *Cannon* decision. In *Women's Equity League v. Cavazos et al.*, 906 F.2d 742 (D.C. Cir. 1990) (one of the string of cases referred to as the Adams cases) the appellate court stated that while *Cannon* confirmed an implied private right of action against recipients of federal financial assistance it "pointed the lower courts away from the implication of discrete, broad-gauged rights of action against federal enforcement agencies." at 746. The court found that its oversight of ED/OCR's program, under the original Adams Orders and their progeny, was in fact a continuing across the board supervision of a federal agency. It, therefore, dismissed the cases and released ED/OCR from oversight. However, the court left open the door to a private right of action against a federal agency if the case was "situation specific," i.e., based upon a particularized finding of a violation against a recipient and the agency's failure to ensure compliance and continued funding of such recipient. at 748-49. See also, *Young v. Pierce*, 628 F.Supp. 1037 (cite) in which the district court stated that a private action under Title VI could be sustained against the Department of Housing and Urban Development when there was a showing that the agency had actual knowledge of segregation and continuing providing financial assistance to the discriminating entity.

In 2001, the Supreme Court again addressed the issue of a private right of action against a recipient of federal financial assistance. In *Alexander v. Sandoval*, 532 U.S. 275 (2001) the Supreme Court affirmed its holding in *Cannon* that there is a private right of action under the civil rights statutes. However, it clarified the standard for sustaining such action and held that the discrimination must have been found to be intentional and actionable under the statute.

III. Next steps

As discussed above, seven statewide systems of higher education entered into statewide agreements with OCR since the Supreme Court's decision in *Fordice*. While some of these states' agreements have expired, none of these states have been released from OCR's oversight nor have they been informed that they have remedied their long-standing Title VI violations.

The first issue to be addressed is whether a private right of action may be maintained consistent with the Supreme Court's decisions in *Cannon* and *Sandoval*. As discussed above, the Supreme Court in those two cases found that a private right of action was available against a federal fund recipient that had intentionally discriminated. It is without dispute that the statewide higher education systems that have been found in violation of Title VI intentionally maintained those *de jure* or *de facto* systems of higher education. They have not been released from monitoring and have a continuing obligation under the *Fordice* decision, Title VI, and the Revised Criteria to eliminate the vestiges of their previously segregated systems. Therefore, it is breaking no new ground to assert a private right of action against one or all of these states. A more difficult issue is sustaining a private action against ED/OCR. In order to survive a motion to dismiss under the appellate decision in *Women's Equity League*, *supra*, any action would need to be considered situation specific rather than a broad based attempt to oversee the agency's actions.

1. Private legal action against state recipients

As discussed above, ED/OCR continues to monitor agreements with the states of Virginia, Florida, Kentucky, Maryland, Pennsylvania, Texas, and Ohio. While all of these agreements were premised upon the uncorrected Title VI violations, no state received a new violation finding. The states' present compliance was evaluated consistent with *Fordice* as discussed in the *Fordice* Notice.

Many of the agreements are identified as "Partnership Agreements." The agreements vary in nature, one includes issues that were not raised by the earlier Title VI finding (Florida), one agreement is based upon an exchange of letters rather than a signed agreement (Ohio), some are quite general in nature (Maryland, Kentucky, Pennsylvania), and two are specific as to the commitments required (Virginia and Texas.) The one issue addressed in all of the agreements was the enhancement of the HBCUs consistent with the standards established in *Fordice* and the Revised Criteria.

To proceed against any or all of these states, the premise of the action would be the unresolved and unremedied Title VI intentional discrimination finding. Because of the nature of the agreement and the areas addressed, an action against Florida would be the least sustainable. Actions against the other six states would most likely survive motions to dismiss. However, a number of these states have already or are actively addressing the commitments made to ED/OCR. Based upon recent actions and reports, Maryland appears to be one state that has not done so. Therefore, a private action taken against Maryland would appear to have the best potential for success.

A caveat to any action is that any of the states could argue that the Title VI violation was found more than 30 years ago and that the passage of time breaks the nexus upon which a continuing vestiges violation is based. None of the pending agreements have either a finding of a present violation or an admission by the state(s) of a continuing legal obligation based upon previous discrimination.

2. Private legal action against ED/OCR

In order to pursue a private action against ED/OCR, the court's guidance in *Women's Equity Action League* should be followed. The action should be situation specific and should evidence a clear showing of non-enforcement by ED/OCR. It is arguable as to whether a decision to assert an action against OCR for its failure to enforce all seven of the pending statewide higher agreements would meet the standards of specificity. Therefore, prudence would dictate selecting one or two of the state agreements upon which to base this "situation specific" claim against ED/OCR.

The premise of the Title VI claim would be the same as that taken against a state entity. OCR would be found to have intentionally violated Title VI by failing to take enforcement action against a recipient of federal financial assistance that has not remedied its Title VI violation, while allowing federal funds to continue to flow and support such discrimination.

All of the caveats that apply to the state actors would also apply to any action taken against OCR. In all likelihood, the appropriate "situation specific" recipients for a private right of action against OCR would be one or more of the states identified above as a candidate for private legal action directly. * * * Additionally, in the case of Maryland, OCR is apparently "on notice"—from the very experts relied upon

by the Fordice court and chosen by OCR to evaluate Maryland's compliance with its present agreement—that there has been a failure to implement the agreement and, therefore, to remedy the underlying civil rights violation.

3. Congressional oversight

It is important to recognize another avenue for ensuring that both ED/OCR and the states continue to meet their obligations—the bully pulpit. At any oversight hearing, a very sympathetic case can be made that there is unfinished civil rights business, the dismantling of previously segregated higher education systems and the commitment to recognize the importance of and enhance HBCUs. In this effort, the White House Initiative on HBCUs would be an important partner. As discussed above, mounting a successful legal action is a challenge. There is no similar challenge to the reality of HBCUs roles in educating a large number of black students—not only historically, but today. The states and ED/OCR obligations to ensure that students who attend HBCUs receive a quality education, free of the vestiges of discrimination, would be difficult to challenge in this arena.

[The NAFEO 33rd Annual National Conference on Blacks in Higher Education report, submitted by Mr. Pierce, may be publicly viewed in its entirety at the Committee's office, 2181 Rayburn House Office Building.]

Chairman MILLER. Without objection, we will make them part of the record of this hearing.

Thank you very much. Thank you all for your testimony.

One of the items that I mentioned in my opening statement was the incredible contribution of historically black colleges to our teacher corps in this country, and it is near and dear to my heart.

As we struggle with the reauthorization of No Child Left Behind, I think it is very clear to those of us on both sides of the aisle that we are in desperate need for this next generation of teachers to have great capacity to teach students at a depth and at a breadth that we are not doing today so that they will have the ability, those students.

We just met with several dozen CEOs from the high-tech industry yesterday with the Speaker talking about their educational needs, and they made it clear again, as best I can put it, that they are going to need graduates of college and of high school who can work across their company, across the country, and across the continent with the most diverse workforce in the history of the world serving the most diverse customer base in the history of the world, and this takes a lot of skill and a lot of talent and a lot of depth of understanding.

And as much as we recognize that technology is changing the world, it also can change the classroom, and to now have teachers that are skilled in the use of technology as we look at different kinds of assessments, of informative assessments, of the ability to have the classroom experience the Internet, broadband, we now need this generation to really be skilled in that field.

And, Dr. Yancy, you mentioned that you are a laptop university. So I assume students are learning some of that, but I just wonder how you see teachers now coming to the classroom prepared for really the maximum utilization of technology in that education.

Ms. YANCY. So teachers have to have access to technology. They do not have any choice. The students who are coming in to the public school system or private schools, wherever they are coming from, come knowing how to deal with all kinds of gadgets.

We have had the laptops since 2000, and we have been fully wired. The problem here is the cost of the infrastructure. I mean, we have had to pay to upgrade infrastructure twice at Johnson C. Smith. We have students who do not have money, and so we lease our computers.

You were talking about leasing textbooks, Congressman McKeon, and we have leased laptops, and we have made it available to everyone.

But there is a problem within the teacher education that is not always talked about. The NCATE accreditation process is very explicit. Nobody wants to talk about that. When they come, they come in large teams. You have the state. You have the national group coming all together. And we have all these students that we have to prepare for the library, et cetera.

But then the problem that we have is encouraging the best and the brightest to go into teacher education because the salaries are so low for them to go out and teach. You know, you come out of school owing lots of money, having alternative loans, you already work two and three jobs just to get through college, and then someone wants you to work for \$25,000, \$28,000 a year.

So what you have is the best and the brightest going to the best bidders sometimes, even when they have majored in teacher education. So it is not that we are not providing what they need to become great teachers and be diverse and being able to deal with all kinds of folks, think critically, and go in and just hit the ground running as teachers. You are going to lose them to corporate America who have no problem stealing the best and the brightest.

Chairman MILLER. I have no problem losing them. I love having that marketplace out there for that talent, and school districts are going to have to understand that it is no longer—

Ms. YANCY. They have to get competitive.

Chairman MILLER [continuing]. A closed market, and I think all of that will be helpful.

My concern is that they are exposed to a curriculum and to experiences that make them ready in that classroom so that they can utilize all of the benefits of technology, the ability of students to work across state lines, across districts, across the country—to give their students a depth of education and a different kind of education to make them ready for that workplace in 2020, 2024.

That is my concern, and that is why I am excited to see that your students from day 1 are exposed to that and start to understand what that means, because you can still graduate from the School of Education and not have any experience in technology. It is unbelievable that that is the case in this country, but that is. You can still graduate and not have any understanding of IDEA, you know, in this country, when people are dealing with special education.

Ms. YANCY. Representative Miller, I come from the old school—

Chairman MILLER. I am not putting this burden on you. I am just saying I am excited—

Ms. YANCY. No, I come from the old school called truth in lending.

Chairman MILLER [continuing]. Because of the contribution—

Ms. YANCY. Truth in lending. If you say you are going to promise the students a quality, competitive education, then you have a re-

quirement to do it. What we have here is a shortage of funds and many of our—

Chairman MILLER. I understand that. I understand that very well. And let me just say this: I was meeting with a group of Upward Bound students yesterday, and I think it is very important that we establish—and your institutions establish—a working understanding of the new arrangements in financing of their education. There are now opportunities available to them that were not before.

You mentioned starting at a low salary. Under the income contingent loan repayment program, they do not have to pay more than 15 percent of their discretionary income in any one year. For those high-performing math and science teachers, they can get \$4,000 assistance while they are in school if they will teach afterwards. If they enter public service, if they enter the non-profit world, if they want to become a prosecutor or public health doctor or public defender or fireman, after 10 years, their loans go away. And we are also trying to coordinate within that loan to make sure that they understand all of the access that they have to the federal loan program before they take on a private loan.

Too often, private lending is directly marketed to the student. The student takes advantage of it and then realizes that they have a headache on this one when they still had capacity within the federal program. So we have really tried to redesign this, but it is different from what a lot of people assume, which leads them to the conclusion they cannot continue their education, and it is not the case in many instances.

Ms. YANCY. Yes, I am not disagreeing with you, Representative Miller. I guess what I am really saying is many of our students are first-generation students. It is not that they have been told, it is not that they have been tutored and exposed to the possibilities of loans and what happens to their loans and how they go away. When you are first generation and you graduate from college—I was in graduate school, I was first generation in my family. My sisters had gone to college. My father's position was, "Why are you staying to get a Ph.D. You need to get out and get a job."

When these kids reach the point of graduation and there is someone waving \$60,000, \$70,000 in their face versus the other, it sort of hurts your heart to see them decide they are not going to be teachers at that point, and that is all I am really trying to say.

And the same thing is true about them going on to get Ph.Ds. There is someone waving something in their face, particularly those in computer science. We are number one in the Carolinas in the production of African-Americans in computer science and computer engineering. I have to just pull hen's teeth to get them to go on to graduate school, and that is all I am really trying to say.

Chairman MILLER. All right.

Mr. McKeon?

Mr. MCKEON. Thank you, Mr. Chairman.

I love these hearings on education. They always bring up more problems than solutions, but it really makes you think about how far we have come, but how far we need to go.

I hear discussions about competition between the schools where we really need to pull together and understand that the competi-

tions should not be between the schools or the classes of schools or the kinds of schools we have—proprietary schools, black colleges, traditional schools—our competition is China, India, other places around the world, and if we do not prepare, as the chairman said, our diverse workforce to handle all the diverse needs, I do not think our children and grandchildren are going to have the kind of lives that we have had. So we have tremendous challenges before us.

Talking about teacher pay, I served on a local school board for 9 years, and we lost—we had a couple of our best math-science teachers in the district, and they left to go to work for industry. They tried to stay as long as they could. Finally, it got too much and they could not afford to stay. That is a problem. However, we also have teachers that are overpaid.

The way this system works, all teachers are paid the same when they are hired, and after a couple of years, some of them have shown that they are much better teachers than others, but they are still paid the same because steps and columns—the way it works—I know that the chairman in the reauthorization of higher education has tried to work on differential pay and some other things like all other industries have, but in teaching, everybody is the same, and I think that causes real problems.

Dr. Yancy, you talked about the problems with loans and getting loans, and I am really concerned that we are heading for a major problem, that the things that have hit the housing industry are coming also to the student loan industry, whether it be the government program, the private financing. The problem with getting capital is going to cause some real problems.

I do not know—I would like you to all address that—if you are hearing from lending companies the problem of getting loans for the students for this coming summer and fall and what you are seeing in that area.

And, Mr. Pierce, the point that you brought out on the fact that we are not enforcing laws, I think that is a national problem, not just in civil rights, but in other areas, selectively enforcing laws. My constituents are very concerned about illegal immigration. You know, it looks like some laws we enforce, some we do not. You run a stoplight, you get a ticket. If you are here in the country illegally, we look the other way, you know, and that really concerns me.

I would like you to address, if you could, the problems that you faced with your time in the department in trying to get civil rights laws enforced, and you talked about how you have seen that fall off since you left the office.

Mr. PIERCE. Congressman, at the time, we actually, for the most part, in totality realized a great deal of cooperation from the states. Now there were some states at that time that were very recalcitrant. Ohio was definitely one of them. But, for the most part, the remaining states worked with us.

It was Secretary Richard Riley was Secretary of Education at that time. It was his desire that we work in partnership with the states to pull together compliance plans that were bringing these states in compliance with federal law, and we did just that.

However, it did not take long when we left for states to begin to retreat from not only those agreements, but stated federal higher

education desegregation policy that states clearly that certain initiatives and policies by states in the world of higher education would have an adverse impact on the desegregation process in higher education, one of which was the—seems to be—it is federal policy and that is the unnecessary duplication of educational programs.

Now we know that in the days of apartheid and segregation, to have a school of journalism at Florida State University, a traditionally white institution, right across the street from Florida A&M, a traditionally black institution, was the way life was to keep the races apart. If you were black and you wanted to get a degree in journalism, you have to go to Florida A&M. If you are white, you go to Florida State. That is just the way it was.

Part of the federal policy was to remove those policies—it is like racial steering in real estate—and say, “Look at what your state needs in terms of higher education, whether it is more law enforcement officers, environmentalists, scientists, and biotechnologists, whatever, and then use that to craft educational offerings in the state system of public higher education commensurate with those demands.” So you would not duplicate programs unnecessarily that would only continue segregation.

So to place a school of pharmacy, so to say, at Texas Southern University which would attract a more diverse student population or the school of physical therapy at Langston University in Oklahoma—I gave the commencement speech there. I would say 30 percent of the graduates of that class in physical therapy were white students. Why? Because of the quality of the program there was attracting students.

But now you have a retreat from that. I think Dr. Richardson can attest to this. Part of the deseg plan was to place, I believe, a doctoral degree in education at Morgan State University. Now you clearly see after, you know, the sheriff left town, as you see other colleges in the state system of higher education in Maryland, encroaching upon that degree right down the road from his university. And that goes on and on and on. Land grabs. Money that was committed to historically black colleges and universities has been removed.

So, yes, yes, I mean, it is a clear difference, but it was the same thing during the Reagan-Bush years that preceded us. There had been a lull in the enforcement of the higher education desegregation—not as much because, interestingly, Clarence Thomas, when he ran the Office of Civil Rights, he was the person that found three of those states in violation of federal civil rights laws, and one of them sued the Department of Justice in litigation.

I believe if Clarence Thomas can see that, you know, anybody should be able to see that. So, you know, no disrespect to the Justice, but, clearly, there has been a difference in how federal civil rights law has been enforced from the years 1993 to 2000 and 2000 to now.

Mr. RICHARDSON. Congressman, if I might add just for the record, a correction on the record, we actually have the doctoral in education program. The doctoral programs that came as a result of the efforts under Dean Pierce here were doctoral programs in history, engineering, math, and science education.

The program, of course, that we most recently have been talking about is the MBA program that was just duplicated about a year and a half ago, and that was a continuation of the duplication that we think is very harmful not only in terms of efficiency, but also in terms of the diversity issue, which it was intended to address from the beginning.

Mr. KILDEE [presiding]. Thank you, Mr. McKeon.

Secretary O'LEARY, in your testimony, you mentioned that if you can admit and support a student in his or her first year, then there is an 86 percent chance you will be able to retain them the second year, and your graduation rate is about——

Ms. O'LEARY. Sixty-five percent.

Mr. KILDEE. Which is higher than the national——

Ms. O'LEARY. Well, it is 10 percent higher than the average in the United States of America. That is correct.

Mr. KILDEE. What strategies do you use to achieve that success?

Ms. O'LEARY. Well, there are actually three that I am going to talk about them and two-pronged.

The first one is the finances. You have really got to work with these students, 91 percent of whom at Fisk are on financial aid. And earlier Chairman Miller asked the question with respect to third-party loans. Well, at Fisk, we are working with one of our major banks in Tennessee to ensure that there is a backup available for our kids if other financing runs out.

The other piece of it, to move to the advisement side, has to do with the size of Fisk University. Our student-to-faculty ratio is 12:1. So, like it or not, you cannot get into too much trouble academically or socially. I would say I know easily 30 percent of our kids by name, by degree program.

The other thing that occurs in such an intimate surrounding is that the advisement of these students is unique and personal, and it moves beyond the adviser for the degree program. We also have a series of advisers whose responsibility it is to look after our students and intervene at least by mid-semester if there is a problem with academics.

So we pretty much have them locked on our 42-acre campus, and we give them that kind of attention.

Mr. KILDEE. That is a remarkable record.

Ms. O'LEARY. Thank you.

Mr. KILDEE. It is not cheap to do that, but it certainly has produced a high degree of success.

Ms. O'LEARY. Indeed, it is not cheap, as our endowment will attest. Well, before I arrived, others saw these needs for our students and unwisely dipped into endowment to support these initiatives, and now we are working to find money outside of those needs to put that endowment back.

But we are very proud of our record. Thank you.

Mr. KILDEE. Mr. Pierce, what is the purpose of the partnership agreements between the states and the OCR? Is it a settlement in lieu of a lawsuit?

Mr. PIERCE. Exactly. Congressman, of the original 19 states that were involved in federal litigation or investigation, all of them except for five were able to present plans to resolve their violations. Five of them had to go to court, again one of them all the way to

the Supreme Court—that was Mississippi—and our Department of Justice prosecuted those cases.

All the remaining states said, “Okay, Department of Education, Office of Civil Rights, we will sign a document saying we will commit to do the following over a certain period of time, which, hopefully, at the end of that implementation period, you will find us in compliance.” That was what those plans were designed to do, to bring the states in compliance with federal education policy by removing the vestiges of that practice of segregation that continued having effects to today.

Mr. KILDEE. After the partnership agreement expires, is there expiration data—

Mr. PIERCE. Yes, sir. Most of those plans are maybe 4 or some 5 years.

Mr. KILDEE. And what do you do then? Does the state’s obligation end at that point and you renegotiate it or—

Mr. PIERCE. No, the obligation does not end. The obligation is on the Department of Education’s Office of Civil Rights to then conduct an analysis to determine whether or not what the states committed to do actually had the effect of addressing the violations to the point that they could be removed. In many cases, those plans expired and the states were informed by the Department of Education, “Continue doing what you are doing, and we will get to you and ultimately make an analysis as to whether or not you are in compliance.”

Unfortunately, that has not happened. All the plans that I negotiated, Congressman, have expired, and those states are still under continuing obligations to implement those plans to the letter and to the spirit.

Mr. KILDEE. All right. Thank you very much for that information.

And I appreciate the work you did during your time there with the department. I recall those years, and we talked a few times at that time.

Mr. PIERCE. Yes, sir. I remember being in your office.

Mr. KILDEE. I remember that very much.

We have a vote on in the House, but I think we have time to get Mr. Keller from Florida in to ask a question. Then I think I will all run over to the House and cast my vote and get back here as soon as I can.

Mr. Keller?

Mr. KELLER. Well, thank you, Mr. Chairman.

I want to thank all our witnesses for being here today.

I am looking at your book here, and the very first topic says, “Expanding Access to College,” and that is the topic I want to touch upon. I am chairman of the Pell Grant Caucus here in Congress and a big fan of Pell grants. I myself would not have been able to go to college without Pell grants.

When you look at the demographics, about 80 percent of Pell grants go to minority students. Now here is the challenge. Ninety percent of the students getting Pell grants come from families making \$40,000 or less, and the biggest problem that has raised for me is that parents will come to me and say, “Well, I am a firefighter. My wife is a teacher. Together, we make about \$70,000. We are too

rich for Pell grants, but not rich enough to pay for our kids to school, and we have two little girls in high school," and there is a very limited amount of tax incentive that will help them, HOPE tax credit, a small deduction if you are under a certain amount.

What would you give us as advice to remedy that situation for the people who need the help to help access college, but they are just over the Pell grant limits to open the doors for your universities?

Dr. Richardson, have you guys talked about that?

Mr. RICHARDSON. Okay. Congressman, I think that the financial aid issue is perhaps the most vexing issue for our historically black colleges and is very much associated with the retention and graduation rates. If you were to look at most of our institutions, you are going to find just that statistic that you just mentioned, about 90 percent on student financial aid, and what we have tried to urge is, yes, increasing the Pell grants because that is the first line of defense for most of our students.

But the second is to provide additional dollars through other kinds of assistanceships and research assistants and all kinds of ways when we get the grant monies and all of those things through the federal structure. We have also tried to give back more money from our own institutions. You are going to find in most instances that our institutions heavily subsidize our students.

Mr. KELLER. Including the students who are not eligible for Pell grants because their parents make a little bit too much, yet they still do not have enough money to go?

Mr. RICHARDSON. Yes, absolutely. We understand that dynamic.

Sometimes when you are talking to those who are the policy-makers, they do not always understand that. They think that because the parents make \$75,000, then there should be enough money. But, yes, there is that threshold there that will make the difference between whether or not a student matriculates or does not matriculate, and oftentimes, the institution has to try to find money.

Now, when the institution provides those dollars, you are taking from the same pool of students from which you must hire your faculty, build your technology infrastructure, and all of those kinds of things. You will also note that our institutions on average charge far less. If you were to look at my institution and compare it to its Carnegie counterparts in the state, our majority institutions who offer doctoral research, I am about \$2,000 less on tuition. That means I automatically forfeit every year \$8.5 million. Then I come back and I subsidize those students further with institutional aid.

Mr. KELLER. And it depends on what your endowment is, too. I know like Harvard has a \$36 billion endowment, so it is easy for them to——

Mr. RICHARDSON. No, we do not have those kinds of endowments.

Mr. KELLER. You do not have that. [Laughter.]

I was telling the Harvard people—I was this close to going to Harvard, that was how thick my rejection letter was, and——

[Laughter.]

But, Dr. Yancy——

Ms. YANCY. Congressman Keller?

Mr. KELLER. Yes.

Ms. YANCY. When you make a certain amount of money, which is not enough money to send your kid to college, you are sort of caught in a never never land—

Mr. KELLER. Right.

Ms. YANCY [continuing]. And that is when we get down to the loans that parents and students engage in, which means that they have a tremendous burden when they leave college.

At my institution, we spend a lot of time trying to raise money for scholarships, and we have a few, but if you fall under a 3.0, you are in a never land again. So, from 2.0 to 3.0, there is—no one wants to give you money for a kid who is “not on the honor roll.” So that becomes another problem.

So you have to provide jobs. You have to help them find jobs, or you have to get grants from MARC, NBRS, all kinds of research grants where you can aid students in those kinds of things, but there is just very little money for that group that is in between. They are sort of the betwixt and between group, sort of like the preteen that you cannot find clothes for.

Mr. KELLER. Right. Well, thank you.

Mr. KILDEE. At this point, we will take a brief recess. We are tight on the time for the votes now, but Mr. Andrews is on his way back, and he will take the chair, and I will be on my way back. It is one of those days we are trying to finish the session up. We apologize for these interruptions.

Your testimony has been great. Stick right there. We will be right back.

[Recess.]

Mr. YARMUTH [presiding]. We will call the hearing back to order. I guess it is my turn for questioning.

Dr. Sias, once again, welcome. It is a great privilege to have you here representing the Commonwealth of Kentucky and Kentucky State University.

You mentioned that while HBCUs account for only 3 percent of the nation's colleges and universities that you account for 30 percent of the baccalaureate degrees and 40 percent of all first professional degrees awarded African-Americans. What strategies are HBCUs using and maybe Kentucky State specifically to account for this disproportionate degree of success?

Ms. SIAS. I think when you heard Dr. Yancy talk earlier and actually Dr. O'Leary as well, they talked about the personal knowledge you have of your students, knowing who they are. I, too, know most of the students on my campus. If not by name, I know their faces wherever I see them. If I see people who should be in class and they are not, I am going to say something about it.

We have improved our advising department, and it is not just about faculty members' advice—that is their job—but we have hired professional advisers as well. We put in technology that the chairman had talked about earlier so students themselves can go online and put in their degree program and see where they should be. We have gone in and looked at our curriculum structure over that nine-semester period to see what our students should be taking, how are they taking it, are those courses being offered.

And we have also done a few other things. We have a degree completer award at Kentucky State University. We recognized that

a large number of our students were getting up to that last year and a half and they were not getting done because they were out of money. So we took some of our needs-based assistance and said, "If you are out of money and you are within that 24 hours, we are going to help you get there," because, to be perfectly candid, it does a lot for us in terms of our funding formula, and we need to get those people out and in jobs.

But I think a large part of it really relates to the personal care, understanding who the students are, paying attention to what they are doing, and monitoring those mid-term grades. If you see students have a problem, get them in. And we are even going to stop waiting until mid-term and really go to an electronic version of class attendance so we know when they are not going to class so we can get on them about not going to class as well.

Mr. YARMUTH. There are also I know—oh, I am sorry, Dr. Yancy. Yes?

Ms. YANCY. I was going to add at Johnson C. Smith, we initiated something called the freshman academy which is a learning community. We have placed all of our freshmen in learning communities when they arrive, and each of the learning communities have themes. We also have a sophomore initiative.

But in order to do this, we had to expand our faculty from 80-odd to 103. So our teacher-student ratio is 13:1, and we also have mentors who are staff who are assigned to each of the learning communities, and that has helped.

Our retention has not changed significantly, but there is a difference in the performance of students. They are doing better in classes, and I think that this supportive and nurturing community that we say we provide, we are actually doing it.

Ms. O'LEARY. I would just like to add one thing, and that is that our historically black colleges and universities have a legacy of receiving kids whose parents or whose teachers understand that to change their lives they must be educated, and I do not think we have lost that in the student that shows up. They hunger for that degree, for an opportunity to really play in the game, both in the social, the economic, and even the political because we find our students so politically active. They come with that desire. We just have to heat it up a little bit.

Mr. YARMUTH. Thank you.

And, Dr. Sias, when we have talked, you have talked about the fact that we spend about 50 or 55 times more to provide access to our young people in colleges than we do to keep them in the college, and the program that you have initiated at Kentucky State, which actually helps kids who come up with maybe not the foundational skills, the study habits, the time management and so forth, which also is an important part of getting kids who are—I call them kids. I should not—but getting young people who are fully capable of doing the work, but need a little bit of that structure that they may have been missing.

If you can elaborate a little bit on that because one of the pieces of legislation that we have in the Higher Education Act has actually evolved from the discussions that you and I had.

Ms. SIAS. Absolutely. We are talking about students with developmental education needs, and we have an academic bridge pro-

gram. In Kentucky, 52 percent of all students who graduate, regardless of their color, graduate needing at least one course in remediation. For African-Americans, that number is 77 percent.

What we have done is establish an academic bridge program where we take those students with those developmental needs and we bring them in in the summer. Initially, we used their financial aid. The last 2 years, we have paid for it. It has increased the enrollment. It increases our retention.

Out of the students we had last summer, 93 percent of those students were retained by the time we finished the end of that freshman year. You knock out the remediation, which means they start earning course credit immediately because not earning course credits really is a problem for them and they get depressed about what is happening to them. Having student mentors, peer mentors, getting the reading, the public speaking, all of those things out of the way—

We are getting ready to move to the next stage, which is also really looking at using technology to help with that remediation, like you thinking about the learning communities, but what says that you have to wait for a student to get to your campus before you start remediating? Nothing really. I mean, I think it is that important that we get it out of the way early, and because we are up for reaffirmation, our QEC will look at that whole first-year experience, and ours is really focusing on a topic that is called Academics with Attitude that deals with this whole first-year experience and what we can do on every front to help those students.

And you are right. It makes a tremendous difference having peer mentors and what I have seen is even more important. When students step up and they can relate to other students and they see them not doing what they should be doing, that makes a tremendous difference in our retention rate with those students.

Thank you for asking the question. I appreciate it.

Mr. YARMUTH. Thank you very much.

Mr. Andrews?

Mr. ANDREWS. Thank you, Mr. Chairman.

Ladies and gentlemen, thank you for your testimony this morning. Thank you for the contribution your students and institutions are making to our country. It is terrific. We are glad that you are here.

I am assuming that at institutions which have very high quality and very small endowments, which I think characterizes everybody here, a lot of the students need to have gap loans. They need to borrow money between what their financial aid package gives them and what they need to go to school. Is that a correct assumption?

Ms. O'LEARY. Oh, yes.

Ms. YANCY. Yes.

Ms. SIAS. Yes.

Mr. ANDREWS. Okay. I am following up on something the chairman asked about, Mr. McKeon asked about. Have you yet experienced any problems with lack of liquidity in getting loans for gap loans? Has that been a problem for any of the institutions here?

Ms. O'LEARY. With respect to Fisk, as I earlier said, it has not been, but we are aware that this tidal wave is coming.

Mr. ANDREWS. Yes.

Ms. O'LEARY. And so we have already begun to work with one of our major local banks to secure an alternative approach.

Mr. ANDREWS. How about the other institutions? Did you see a problem on the horizon, and if so, is there a way to deal with the needs of these students?

Mr. RICHARDSON. Mr. Chairman—or Congressman——

Mr. ANDREWS. You can call me that, if you want to. [Laughter.]

Mr. RICHARDSON. I love promoting.

Mr. ANDREWS. Mr. President, go ahead.

Mr. RICHARDSON. Let me simply say that it just compounds a problem that has existed for many, many years. Many of these students are not creditworthy—their parents.

Mr. ANDREWS. Very few of them are.

Mr. RICHARDSON. Yes. Their parents are not creditworthy. So they do not have the option of borrowing in the same way that our more affluent students would have. So that is just the way it is.

Mr. ANDREWS. Yes.

Mr. RICHARDSON. Now when you add on to that the way that the economy now is going and the impact of the mortgage lending and all of these other things with that, then that simply just compounds it. But I am not sure that we see the dramatic effect because ours is already at such a low ebb.

Mr. ANDREWS. I just hope it does not get any worse because I know it would—if the rest of the academic community catches a cold, your students get pneumonia as far as I can tell.

Now what I wanted to ask was: Does anybody here have experience with the Lender of Last Resort program? Have any of you used it for your students?

Ms. SIAS. We have a couple of students who——

Mr. ANDREWS. Yes, ma'am.

Ms. SIAS [continuing]. Have actually used a program like that. Yes, sir.

Mr. ANDREWS. Has it worked? Has it been easy to access? Is it something that works?

Ms. SIAS. First of all, the students really have to get the information about the program, and there is not enough information out there. They are also skeptical about what that means. And I would say probably 50-percent higher interest rates, and 50 percent of the people who go after it come back saying that they could not get——

Mr. ANDREWS. Could not do it.

Ahead of the facts, my prejudice here is I think the tidal wave is coming, and my own view is that without some kind of guarantee behind attracting the capital, we are going to attract the capital for these gap loans for your students, and although the Lender of Last Resort program works in theory, I do not know that it works in reality.

Does anybody else have any experience with that?

Ms. YANCY. Yes.

Mr. ANDREWS. Yes, ma'am?

Ms. YANCY. Another comment to make. I grew up in a union household, and you know you are the last hired and the first to be fired. In 2001, when everybody talked about the depression that came in the fall, it hit my campus in the spring. My students left owing over \$1 million in tuition.

Mr. ANDREWS. Right.

Ms. YANCY. All right. Now this fall that we just had, 2007, we had large numbers of students who had to go back home because they could not get loans, they did not qualify for loans, et cetera, et cetera. So I do not know about the other people in this room, but we already know about the depression or whatever you want to call it—

Mr. ANDREWS. Yes, ma'am.

Ms. YANCY [continuing]. And I know it is going to get worse.

Mr. ANDREWS. I see that my time is about to expire. We want to move on.

I want to just ask you all one time. The committee is going to start to consider this issue very intensely in the next few days, and I know we are going to want to draw upon you and your associations for your expertise as we approach this. I hope that we are overreacting to a problem that does not come, but I think the problem is coming. It is already here for a lot of students. We want to help those who already have the problem and avoid it for those who do not.

Thank you, Mr. Chairman.

Mr. RICHARDSON. Mr. Chairman, if I could make this one other comment in this regard—

Mr. YARMUTH. Yes.

Mr. RICHARDSON [continuing]. To simply say to you—to use this opportunity to say—that we really prefer not having the loans, but to have increases in Pell grants and other kinds of assistance—

Mr. ANDREWS. You bet. As do we.

Mr. RICHARDSON [continuing]. Because if we continue to go this way, then when students graduate, they are so burdened with—

Mr. ANDREWS. Just to quickly editorialize, the Congress is going to make a decision in 2010 about what to do with the expiration of the Bush tax cut. Personally, not speaking for the committee, here is what I would do. The top 5 percent, which is people making over \$300,000 a year, I would let them expire, and I would take the \$1.5 trillion that would put back in the Treasury and make the Pell grant program really mean something in addition to other things. So that is what I would do, and I think that is the direction—

[Applause.]

Mr. YARMUTH. Thank you, Mr. Andrews.

At this time, I would like to recognize Dr. Julianne Malveaux, president of Bennett College and noted syndicated columnist, and like Chairman Miller and Ranking Member McKeon of California, we welcome her in the audience as well.

At this point, I want to thank all the witnesses for their testimony. This has been a very interesting hearing, and as Congressman Andrews mentioned, we will be pursuing these subjects with great intensity.

Without objection, members will have 14 days to submit additional materials or questions for the hearing record.

Without objection, the hearing is adjourned.

[The statement of Mr. Altmire follows:]

**Prepared Statement of Hon. Jason Altmire, a Representative in Congress
From the State of Pennsylvania**

Thank you, Mr. Chairman, for holding this important hearing on Historically Black Colleges and Universities (HBCUs).

Throughout their history, HBCUs have played a critical role in providing high-quality post-secondary education to African Americans in the United States. For many years after the abolition of slavery HBCUs were the only institutions of higher education where African American students could receive an education. Today, HBCUs still play a critical role in educating African Americans. While they represent just 3 percent of all colleges and universities, HBCUs enroll 30 percent of African American students in the United States. In addition, HBCUs educate 50 percent of all African Americans that become teachers.

HBCUs' role in educating our nation's African American teachers is of particular importance to me. While 17 percent of public school students are African Americans, only 6 percent of public school teachers are African Americans. To address this disparity I introduced the Improving Teacher Diversity Act (HR 4045). This legislation will provide grants to schools of education at minority serving institutions, such as HBCUs, to help recruit and prepare teachers. Specifically, the grants could be used to award scholarships to students in teacher preparation programs, develop initiatives to retain highly qualified teachers and principals, provide faculty with professional development, and provide mentoring programs for prospective teachers.

I would like to thank Chairman Miller for including the Improving Teacher Diversity Act in the College Opportunity and Affordability Act (HR 4137), which was passed by the House on February 7. I am hopeful that it will be maintained in conference with the Senate's Higher Education Act reauthorization bill.

Thank you again, Mr. Chairman, for holding this hearing and for your leadership on issues affecting HBCUs.

[Questions submitted to witnesses and their responses follow:]

COMMITTEE ON EDUCATION AND LABOR,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, March 13, 2008.

[VIA FACIMILE TRANSMISSION]

Dr. EARL S. RICHARDSON,
Morgan State University, Cold Spring Lane and Hillen Road, Baltimore, MD.

DEAR DR. RICHARDSON: Thank you for testifying at the March 13, 2008 hearing of the Committee on Education and Labor on "America's Black Colleges and Universities: Models of Excellence and Challenges for the Future."

Representative Ruben Hinojosa (D-TX), chairman of the Subcommittee on Higher Education, Lifelong Learning and Competitiveness and member of the Early Childhood, Elementary and Secondary Education Subcommittee, has asked that you respond in writing to the following question:

States have been fighting the limited maintenance of effort requirement that we have included on our reauthorization bill. In your testimony, you highlight that states have yet to meet their obligation to provide equity. In Texas, it took a lawsuit to get more equitable funding for our colleges and universities in the border region—all of which are Hispanic-Serving Institutions. In response to the lawsuit, we saw some improvements. But, now, it seems we are back to the days of growing inequity in funding. What should the federal government do to ensure that states maintain their investment in higher education and provide equity for institutions that serve low-income, first generation, and minority students?

Please send an electronic version of your written response to the questions to the Committee staff by close of business on Wednesday, March 26, 2008—the date on which the hearing record will close. If you have any questions, please do not hesitate to contact the Committee.

Sincerely,

GEORGE MILLER,
Chairman.

Responses to Questions for the Record Supplied by Dr. Richardson

Representative Ruben Hinojosa (D-TX), chairman of the Subcommittee on Higher Education, Lifelong Learning and Competitiveness and member of the Early Child-

hood, Elementary and Secondary Education Subcommittee, has asked that you respond in writing to the following question:

Question: States have been fighting the limited maintenance of effort requirement that we have included on our reauthorization bill. In your testimony, you highlight that states have yet to meet their obligation to provide equity. In Texas, it took a lawsuit to get more equitable funding for our colleges and universities in the border region—all of which are Hispanic-Serving Institutions. In response to the lawsuit, we saw some improvements. But, now, it seems we are back to the days of growing inequity in funding. What should the federal government do to ensure that states maintain their investment in higher education and provide equity for institutions that serve low-income, first generation, and minority students?

The access imperative

Despite the nation's imperative to provide educational access to all its citizens, in many states there remains great disparities in the completion of degrees between minority person and whites. In order to close the access gap, the federal and state governments need to develop effective strategies to increase the number of minority graduates. Since minority-serving institutions have done the lion's share of the work in providing access and reducing the access disparities, the answer to closing the gap lies in enhancing the investment in the institutions that know access best.

If national and state leaders do not urgently seize the opportunity to close the educational access gap, the demographics suggest that an already daunting problem will worsen. The nation's demographics, at least over the next decade, will increasingly favor the traditional clientele of minority-serving colleges—minority students, economically disadvantaged students and those students who may not be as academically well-prepared. For example, Maryland's general population is now 29% African-American, the fourth highest of any state. The Hispanic population, while smaller than the black population, is younger and growing more rapidly. The white population is at best stable and probably declining. Additionally, Maryland's public schools statewide are now nearly half minority, with African Americans accounting for about 40% of public school enrollments. Within five years, the number of black and Hispanic public high school graduates combined will be about equal to the number of white graduates. For more than a century, Maryland's historically black institutions have successfully served this clientele.

Capitalizing on the expertise of minority-serving institutions in providing access

Decades of practice in providing access to students not eligible for admission to other State institutions has made historically minority-serving institutions experts on access. Investing in the institutions that know how to provide access will promote the achievement of important goals in higher education: quality, access, diversity of quality educational opportunities, adequate funding, efficient and effective management, and capable and creative leadership. Indeed, efficient and effective management of our systems of higher education demands that adequate funding be targeted to institutions with a history of success in addressing what should be the nation's priority of providing increased access to minority and disadvantaged students.

Strategies for providing equitable resources to predominantly minority-serving institutions

As Representative Hinojosa points out, historical funding inequities between minority-serving institutions and majority serving institutions remain present today. Any efforts by the federal government to eliminate those funding inequities will contribute to closing the educational access gap. The following strategies are suggested:

- Enforce federal civil rights laws vigorously

During the hearings on March 13, 2008, hearing of the Committee on Education and Labor, Dean Raymond Pearce discussed his concerns regarding the enforcement efforts of the U.S. Department of Education, Office of Civil Rights in this area. If the federal government would enforce the laws which provide for equal opportunity to quality educations for all, we could see prompt improvement on the quality of higher education and narrowing of the access gap.

The failure to effectively enforce federal civil rights legislation has seriously eroded state compliance with federal civil rights laws. For example, contrary to federal law, states have failed to enhance historically black institutions to make them comparable and competitive with traditionally white institutions. Were states to comply with the law, differences in schools based on the racial composition of their student populations would stop. This would cause students of all races to select state schools based on their program offerings, facilities and other non-race based qualities. As long as minority-serving institutions are resourced inequitably and prevented from effectively competing with their white counterparts, students of all races are likely

to be more attracted to institutions with greater resources, the racial segregation of state institutions will continue and minority-serving institutions (which provide access to students who would not otherwise have educational opportunities) will not be able to serve increasingly higher numbers of minorities and low income students.

In the 2008 legislative session, the Maryland legislative black caucus introduced legislation to provide supplemental funding assistance to historically black institutions to support efforts to achieve comparability between minority-serving institutions and other public four-year postsecondary institutions in all respects. They recognized the needs for this supplemental funding because they were mindful of: the unfortunate need of historically black institutions to divert limited and precious operating resources to capital purposes (such as leasing space) necessitated by the state's failure to fund capital needs of HBIs to make them competitive with TWIs and the States misplaced emphasis on institutional ambitions (of TWIs to expand their program inventories, for example) versus state needs and priorities (desegregation and enhancement of HBIs). The supplemental funding was targeted for the: (1) establishment of honors colleges or the expansion and enrichment of other honors program configurations; (2) the development or enhancement of student scholars financial assistance; (3) the development of a faculty scholars program ; (4) the improvement of academic program quality initiatives, and (5) the expediting of capital improvements at minority -serving campuses over the next decade.

- Develop Federal Government Incentives to Promote State funding formulas that control for the nuances of funding minority-serving institutional missions

Provide incentives to states that develop funding formulas that control for the nuances of funding minority-serving institutional missions and that consider the high cost components of minority-serving institutional missions that are critical to providing access to the student populations they serve. First and foremost, 85% or more of the students at minority-serving institution need financial aid. While at majority institutions, student enrollment and tuition is a revenue source, at minority-serving institutions, student enrollment must be combined with financial assistance or the students cannot attend because they cannot pay, resulting in a cost center for the institution, not a revenue source. The vast majority of students at minority-serving institutions simply cannot afford the full cost of tuition and their access to higher education is possible only when they receive financial assistance. Minority-serving institutions provide that assistance in two ways. Their tuition ranges from 17-53% less per student than at the predominantly majority-serving institutions. This equates to an annual forfeiture of millions of dollars in revenue depending on the institution, for which there is no subsidy. Second, even with these lower tuition rates, minority-serving institutions must still subsidize students through financial aid at much higher rates than majority-serving institutions. Third, since minority-serving institution facilities have not been developed consistent with the program and research needs of the campuses, large sums of operating dollars that would ordinarily support additional faculty, information technology, equipment, etc., is used to address temporary capital needs (facilities and other infrastructure projects) which often require enormous funds for utilities.

The failure of most state funding formulas to consider these nuances in funding minority-serving institutional missions causes enormous disadvantages in their ability to compete with majority-serving institutions since majority-serving institutions are able to use their tuition revenues and operating funds in furtherance of their missions. The inadequacies of state funding models are known to those expert in the field. For example, the Commission to Develop the Maryland Model for Funding Higher Education recently heard from a panel of expert consultants, who provided their insight into challenges facing Maryland's higher education funding. They asserted the following: (1) current funding models in many states are driven by institutional aspirations and ambitions rather than State needs and priorities, and (2) current funding models are oftentimes skewed to favor larger universities over smaller universities which provide greater access for minorities and low income students.

- Increase Federal Support for undergraduate and graduate programs and research at Historically Black and predominantly minority-serving institutions

Increased funding in these areas will improve the ability of minority-serving institutions to compete with predominantly majority serving institutions.

- Increase PELL grants

This concern was discussed a great length during the hearing.

Conclusion

The economic growth and vitality for the nation is dependent upon providing educational opportunities to its citizens. Minority-serving institutions have developed an expertise in providing access to the precise cohort of students that represent the

largest growing demographic segment of students in the nation, a number that is expected to continue to rise through the next decade and beyond. The nation's economic vitality, educational access to these students, and the expertise of minority-serving institutions in providing them access are inextricably linked. By necessity, the minority-serving institutions ought to be developed to a level of comparability and competitiveness with the other public institutions so they can take their rightful place in fulfilling the nations' needs. The benefits of funding minority-serving institutions at a level of comparability and competitiveness to their peers is enormous. Consider the successes that are certain: a more highly educated population able to earn higher salaries, increased tax revenues derived from a population having a higher earning capacity, increased talent and creativity in the workplace that contributes to the economic growth and vitality of our states and the nation which translates into a better quality of life for all.

Consider the consequences of our failure to provide higher levels of access to minority student in the State of Maryland. It costs Maryland \$9,600 per year to educate a student at an historically black college. It costs the State a lifetime of forgone income for an individual who has not developed their talents through education. Based on data from the Center for Labor Market Studies of Northeastern University, it costs Maryland about \$26,000 per year to incarcerate a young person; this figure does not include costs associated with parole and probation nor does it include social service costs to support families of the incarcerated or the costs of social services to support families that are economically disadvantaged. And * * * what is the price of crime to our community, to our economy and to the often devastated victims and their families?

The nation's minority-serving institutions have the unique ability to remedy the ills of our society. Higher education must develop a unitary system of complementary, and comparable colleges and universities which are equally attractive to students regardless of race or socioeconomic background; and for ultimately closing the college education attainment gap for African Americans, other minorities and low income high school graduates.

COMMITTEE ON EDUCATION AND LABOR,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, March 13, 2008.

[VIA FACIMILE TRANSMISSION]

Dr. DOROTHY COWSER YANCY,
Johnson C. Smith University, 100 Beatties Ford Road, Charlotte, NC.

DEAR DR. YANCY: Thank you for testifying at the March 13, 2008 hearing of the Committee on Education and Labor on "America's Black Colleges and Universities: Models of Excellence and Challenges for the Future."

Representative Ruben Hinojosa (D-TX), chairman of the Subcommittee on Higher Education, Lifelong Learning and Competitiveness and member of the Early Childhood, Elementary and Secondary Education Subcommittee, has asked that you respond in writing to the following question:

There is a tremendous need for financial literacy for low-income and first-generation college students and their families. Many of our college students lack a basic understanding of consumer economics and personal finance. They do not understand the ins and outs of financial aid. In our College Opportunity and Affordability Act, we have placed an emphasis across programs on financial literacy. We have also called upon all stakeholders in the student loan programs to step up their efforts on this issue. What are the financial literacy needs on your campus? How are you addressing them? What are the challenges?

Please send an electronic version of your written response to the questions to Margaret Young of the Committee staff by close of business on Wednesday, March 26, 2008—the date on which the hearing record will close. If you have any questions, please do not hesitate to contact the Committee.

Sincerely,

GEORGE MILLER,
Chairman.



March 26, 2008

The Honorable George Miller, Chairman
The Committee on Education and Labor
U.S. House of Representatives
2181 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Miller:

Again I would like to thank you for the opportunity to testify on "America's Black Colleges and Universities: Models of Excellence and Challenges for the Future" before the Committee on Education and Labor on March 13, 2008. In this letter I will respond to the questions posed in your letter dated March 13 and received by FAX in my office on March 19, 2008. I have just returned from Easter vacation and that is why my response is being sent today.

The financial literacy needs on my campus are tremendous. Students have unlimited accessibility to credit cards and they have the ability to borrow more money than is needed for fees and tuition. They then receive refunds that are used for themselves and their parents. By doing so, they incur more long term debt than is needed. Immediate needs and wants, in some instances, are placed before long term responsibilities.

At Johnson C. Smith University, through the Office of Financial Aid, we have the requisite entrance and exit counseling interviews for direct loan borrowers. Topics such as budgeting, credit card debt, loan debts, loan totals and refunds are covered. During these sessions we use the printed and video materials developed by the U.S. Department of Education and students also have access to entrance and exit counseling on the Web through the Direct Loans Servicing Site.

Additionally over 20 workshops and seminars are hosted on campus by the Office of Student Affairs on financial literacy for college students. Each semester, Bank of America and Wachovia Bank host workshops on the dangers of credit cards, establishing checking and saving accounts and long term management of cash. In addition, the Greek Council on campus host approximately three seminars per semester on "money and you", the "lack of money" and the "plastic devil" (credit cards). Likewise, the Residence Life Department has brought back graduates that majored in business and marketing to talk about the danger of consumerism. As you can see, we are addressing financial literacy through several mediums.

Office of the President
100 Beatties Ford Road • Charlotte, North Carolina 28216 • (704) 378-1006 • Fax (704) 372-5746

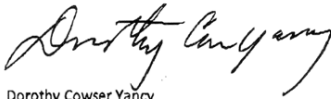
On April 26, we are attempting a new approach. We will have on campus a financial literacy program hosted by the Russell Simmons Foundation. The program will last several hours and is open to all students.

Over the past year or so, we have noticed an up tick in the number of students who are borrowing more money than they need in order to get a refund. Unfortunately some of these funds are being used to assist parents in paying their mortgages.

If you would like any other information from me, I can be reached at 704-378-1007 or by email at dcyancy@jcsu.edu.

Again, thanks for allowing me to testify before the committee.

Sincerely,

A handwritten signature in black ink, appearing to read "Dorothy Cowser Yancy". The signature is fluid and cursive, with the first name "Dorothy" being the most prominent.

Dorothy Cowser Yancy
President

[Whereupon, at 12:05 p.m., the committee was adjourned.]

